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# AGRARIAN TENURES.



# AGRARIAN TENURES

A SURVEY  
OF THE LAWS AND CUSTOMS RELATING TO THE HOLDING OF LAND  
IN ENGLAND IRELAND AND SCOTLAND  
AND OF  
THE REFORMS THEREIN DURING RECENT YEARS

BY

THE RT. HON. G. SHAW LEFEVRE M.P.

*1st baron Eversley.*  
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GENERAL



## PREFACE.

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IN view of the agrarian questions which have been raised in various parts of the United Kingdom, I have thought it may conduce to their discussion and solution to review the existing conditions of landownership and land tenancy, and of the relations to one another of the various classes of the agricultural communities in the three countries, and to describe the efforts made by Parliament during the last twenty-five years to reform or reconstitute them.

These legislative enactments have been numerous and varied, and have accentuated greatly the differences between the agrarian condition of Great Britain and Ireland. Many of them have been tentative and halting. Some have totally failed to produce the effect intended. Looked at as a whole, however, they include almost every method which the most ingenious political draughtsman or the most extreme reformer could suggest, and it would be difficult to invent any new method. They have been the handiwork, not of one political party, but of all parties in turns. They bear the mark of many conflicting currents of opinion, and of many schools of land reformers, aiming at very different ultimate objects.

The multiplication of individual ownerships, the creation of systems of dual ownership between landlord-owners and occupiers of land, the restriction of freedom of contract between landlords and tenants, and the conferring of inalienable rights on the latter, the giving power to local authorities to purchase land by agreement, or by compulsion, with a view to the creation of new classes of tenants, with more or less fixity of tenure, and to the erection of labourers' cottages, the use of



State credit for turning tenants into owners, and the reform of the laws of inheritance and transfer of land, have been some of the methods adopted of a more or less tentative character. Any fresh legislative efforts must almost necessarily be in the direction of expanding, or making effective some of these measures.

I have thought it might not be without value to compare the methods adopted, the objects aimed at, and the results achieved by such legislation. I had almost completed this work before the passing of the Small Agricultural Holdings Act in 1892. I have since, in the intervals of other work, added a description of that Act, and a study of its probable effect.

Some few of the passages describing the changes in landownership in England during the last two centuries are taken from a pamphlet which I published a few years ago, entitled, "Freedom of Land;" and the description of the system of landownership in the Channel Islands is a *résumé* of an article I wrote in the *Fortnightly Review* on this subject.

If in the course of my description I have not unfrequently quoted from Lord Salisbury's speeches, it is because I have found that he has always stated in the most able and complete manner the views or objections of the political party of which he is the head.

I have only to add that I have not written with a view to the existing agricultural depression. No reform of tenure, however desirable, or however beneficial in the long run, could, in my opinion, have any immediate effect on the condition of the agricultural classes, or prove a remedy for a bad harvest or for low prices of produce.

G. S. L.

IGHTHAM, KENT.

February 1, 1893.

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# AGRARIAN TENURES.

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## CHAPTER I.

### LANDOWNERSHIP AND TENANCY IN ENGLAND.

Most people are accustomed to regard the system of landownership in England and Wales as the most permanent and unchangeable of any of their institutions. A careful review, however, of the facts will show that under the influence of laws, of political, social, and economic causes, and of public opinion; great changes have taken place in this, as in other institutions, in past times, and indeed in comparatively recent years. It is historically demonstrable that two hundred years ago—not a long period in the records of a country—the greater part of the land in the rural districts of England and Wales was cultivated by its owners—a class of hard-working, thrifty, and independent yeomen farmers. These men either owned the land in fee, or held it as copyholders under Lords of Manors, subject to fixed annual payments, or to fines of varying amounts payable on death or transfer, but with the right of perpetual renewal, a tenure nearly as certain as that of freehold. There were also in those days great landowners, but they were comparatively few in number.

They were the owners of manorial rights over wide ranges of common land, and of woods and forests. They had also extensive demesne lands, which were let out as farms to tenants, a class which has now become almost universal. Round these great landowners were clustered large numbers of small freeholders and copyholders, who on their part enjoyed valuable rights of turning out cattle, and of cutting turf, bracken, or gorse on the great manorial wastes and commons, which then constituted one-third at least of the area of rural England. These freeholders and copyholders consisted of two classes: the one of yeomen farmers owning and cultivating, themselves, farms of a fairly large size, of from 50 to 200 acres, and employing labourers under them on the farm work; the other and larger class, of small yeomen, or peasant owners, holding land of 50 acres and under, cultivating it with their own hands, or with the aid of their families, and not employing labourers. To this latter class especially the common rights were of the utmost value. Without them, their farms could not be cultivated to advantage. The labourers of the district, whether employed by the landowners, the tenant farmers, or the larger yeomen, formed a much smaller proportion of the rural population than at present. Large numbers of them held their cottages and gardens by a fixed tenure, as copyholders of manors, or on leases for two or three lives renewable on payment of fines. They also enjoyed rights over the common lands. They were dependent on them for fuel, for litter for their pigs, for thatching



for their cottages. They could turn out their cows or donkeys. These common rights were practically inalienable; they were part of the condition of existence of rural life. They eked out the wages in money. They gave a sense of independence and of property to the labouring people.

Great changes have taken place in the condition of rural England in the course of the last two hundred years. The two classes of yeomen farmers and peasant proprietors have all but completely disappeared in every part of the country. A few yeomen farmers, indeed, still exist in the mountainous parts of Wales, and in Cumberland, Westmoreland, and Devonshire. A few peasant owners, or smaller yeomen, are to be found in districts, where there still remain large areas of common lands, as in the neighbourhood of the New Forest, Ashdown Forest, Dartmoor, and the Welsh and Cumberland Moors. There are also a few communities of small peasant owners in Lincolnshire, especially in the district known as the Island of Axholme, where a colony of Dutchmen, many years ago, introduced the system of small ownerships. But these cases are exceptional. The number of agricultural labourers, also, now owning their cottages and gardens, whether as freeholders or copyholders, or under leases for lives, is extremely small. Practically it may be said of rural England, as a whole, that the yeomen farmers, the peasant proprietors, and the cottage freeholders and copyholders have ceased to exist; their lands and houses have been bought up and

merged in adjoining large estates, which are now cultivated wholly by tenant farmers, holding generally on yearly tenancies, and by labourers, who have no permanent interest in the soil or in their homes. The complete separation of the three classes of landowners, farm tenants, and labourers, has become the distinctive characteristic of the English rural system ; differing in this respect from that of almost every other country in the world. Under this system the landowners supply the land and the capital required for all permanent improvements, for draining and fencing it, for planting, for the erection of houses and buildings of all kinds necessary for the farm operations, and for the labourers' cottages. The tenants have no permanent interest in the land ; they hire their farms generally on yearly tenancies, not under leases for years ; they expend nothing on permanent improvements ; they supply only such capital as is necessary for the ordinary cultivation of the land, for the growing crops and for manure, for stocking it with cattle and sheep, and for supplying farm horses and implements. Their capital can be transferred to other farms, except so much of it as is sunk in the growing crops and in unexhausted manures. The labourers, on their part, supply only their labour. They have no permanent interest in the land. They are engaged by the week or the year. They hire their cottages by the same tenure from the landowners or the farmers. They have lost in most districts, by the enclosure of commons, the rights which they formerly enjoyed. In some parts of England, as in Oxfordshire and Wiltshire, large numbers of

labourers change their employers every year, and move with their furniture and household goods to other districts, and are seldom permanently resident in any parish or district.

This complete separation of the three classes of landowners, farmers, and labourers, and the all but complete extinction of yeomen farmers and peasant proprietors, have been due to a number of causes political and economic, all operating in the same direction during the last two hundred years. Chief among these have been the legal methods devised by the lawyers during the period of the great Civil War for tying up estates under a system of family settlements or entails, and preventing their being broken up and dispersed, either by sale or bequest of their owners. There was in this, as in other countries in Europe, from the earliest times a strong desire, under the influence of the feudal system, to connect powerful families with large possessions in land, and with this object to afford the means of transmitting these estates from generation to generation intact, and with every motive for adding to them, with a view to social and political influence, in days when landed property was the main, if not the only, material wealth. There had grown out of this a system of perpetual entail of land; but in the time of Edward IV. the evils of such entails had come to be fully recognised, and the lawyers of that time devised the means of breaking them,\* and thenceforward,

\* *Taltarum's Case*, 12 Edward IV., 1472.

for nearly two hundred years, till the period of the great Rebellion, the Courts of Law and Parliament resisted or counteracted every effort to re-establish the system, and to prevent the free transfer of land. During this period, then, there was great freedom in the sale and bequest of land. The owners of land were multiplied in numbers. It became one of the boasts of England that it had so large a body of substantial yeomen owning the land which they farmed. It is well known that the armies of Cromwell were mainly recruited from this class.

During the troubles, however, of the Civil War, it became of paramount interest to landowners to find protection for their properties, so far as the interests of their children and descendants were concerned, from forfeiture for treason, as one or other side in the war prevailed. The judges who had previously resisted the system of entails now lent their aid in favour of such arrangements. A system was invented, and was recognised by the Courts of Law, under which land could be settled by its owner on an unborn eldest son, with successive limitations over, in such a manner as to elude the statute against entails, and the common law against perpetuities, and to lay the foundation of family settlements. Although perpetual entails were still held to be illegal, yet under the system then devised there was every inducement, when the heir to a settled estate came of age, for him to make a fresh arrangement with his father, thus continuing the settlement for the benefit of another unborn eldest son in the next



generation. The essential feature of the system was the power to settle property upon unborn persons, against which the judges had previously struggled. It is not necessary to enter into a description of the technical method by which this was effected, or to discuss the legal subtleties and difficulties which have grown out of it. It is sufficient to say that it led directly to the system of family entails, under which the great bulk of land in this country is now held. The object of these settlements is to perpetuate the ownership of an estate undivided in the eldest representative of each generation of the family; to restrain any owner for the time being from alienating it or dividing it among his children in such proportions as he may think fit; and to prevent the land being subject to the personal debts of the owner for the time being, for a longer period than his own lifetime.

There can be no doubt that the system thus devised tended very materially to favour the accumulation of land in few hands, and the aggregation of large landed estates. The movement was promoted by other influences. From the revolution of 1688 to recent times, almost all political power was vested in the landowning class, and chiefly in the hands of the owners of large estates. The Upper House of Parliament was, and still is, composed almost wholly of men of this class, and has been recruited—with rare exceptions—from the possessors of broad acres. A large majority of members of the House of Commons was, till the Reform Act of 1832, composed of or returned by the landed aristocracy; and



even since that Act, until quite recent years, the same class has formed by far the most important section of members. The magistracy in rural districts was, and still is, almost exclusively chosen from this class; and the whole of the local government in such districts was, till four years ago, vested in the same body.

Till the year 1831, the Game Laws conferred the enjoyment of sporting rights exclusively on the owners of land of a certain value; and to this day the pleasures of sport can only be fully enjoyed where properties are of such an extent as to make the preservation of game possible and profitable. It followed from these and other privileges that the social prestige and importance attaching to persons in the position of owners of land, of an extent sufficient to qualify them for the status of landed gentry, were very great. It became the object of ambition to men, who had made their fortunes in trades or professions, to be enrolled in this class. Their highest aim was to become the owners of landed properties, to create families in the hierarchy of county landowners, to hand down their estates to successive generations, to prevent the dispersion of their land, so as to perpetuate their families in this privileged class, and to afford means and opportunities for further aggregation. Such motives appeal to some of the strongest instincts of the propertied classes in a social organisation. All these incidents and privileges of landownership tended also to raise the price of land in the market, to give it an artificial value, especially when held in large blocks, or when bought for the purpose of adding to a growing

estate, and consequently to make it more and more the luxury of the rich, and to put it beyond the reach of those who look upon it as a mere investment. The complications caused to the titles to land by the system of entail and the power of carving various interests out of the freehold, made the transfer of land exceedingly difficult and costly, and tended to keep it out of the current run of commercial transactions.

Another cause operating in the same direction during the last two hundred years has been the extensive enclosure of commons. It has already been pointed out that at the commencement of this period nearly one-third of England and Wales consisted of common land. A very large proportion of this—amounting to not less than seven millions of acres—has been enclosed under special Acts of Parliaments, or under the General Enclosure Act of 1845, and converted into private property, free from the burthen of common rights. It might appear that these enclosures, involving as they did the allotment to various classes of commoners of portions of the commons, in compensation for their rights, would tend to multiply small ownerships. The very reverse has been the result. The rights of common were a necessary adjunct to the numerous small ownerships which at one time existed. The whole economy of the small holdings was based on the common rights attaching to them; when the commons were enclosed, allotments of land were made in respect of such rights, but in no way answered the same purpose as the common rights. The allotments

were often at a distance from the land in respect of which they were awarded. The small farms therefore ceased to be profitable when the common rights no longer attached to them. The allotments were sold; the small owners of land fell into difficulties and were compelled to sell; and the land was bought up by the owners of larger estates adjoining; and thus the aggregation of lands in few hands was facilitated and promoted by the enclosure of commons, rather than the reverse. This is illustrated by the fact that the only districts, where small ownerships still exist, are those where common lands remain unenclosed, and where it is fully recognised that the right of turning out cattle on the common is an indispensable adjunct to the small holdings.

It must be admitted also that economic causes have assisted the process of aggregation of land in few hands. The commercial and manufacturing prosperity of the country offered temptations to the class of yeomen farmers to sell, and to invest the proceeds of their land at a high rate of interest; they were tempted the more by the artificial price of the land, due to the causes already alluded to; they often remained as tenants of their former properties at rents below the interest on their investments of the proceeds of the sales.

As small holdings of land fell into the market from such causes, or owing to the death or embarrassment of their owners, they were generally bought up by the adjoining larger owners, or by fresh aspirants to the rank of landed gentry, who were bent on gathering

together large properties, such as to qualify them for the status; and there was no corresponding dispersion or breaking up of large estates, on the death or embarrassment of the larger owners, such as would naturally occur under a system, where there are no artificial encouragements or facilities by legislation or otherwise for the perpetuation of large properties.

These causes, operating slowly but surely for many generations, and during two hundred years, have most powerfully affected the condition of landownership in England and Wales, and account for the fact that the classes of yeomen and small peasant owners of land have all but disappeared. This was fully recognised by the Select Committee of the House of Commons on Small Holdings, which, after two years of inquiry, reported in 1890. Its members unanimously agreed to the following paragraph :—

“It appears to your Committee that to whatever extent legislation has tended to keep land out of the market, it must have been unfavourable to the creation of new small holdings, and must, therefore, have prevented the repair of the inevitable waste in this class of ownerships due to natural causes. They cannot doubt that the distinct object of legislation, down to a very recent period, was to prevent the dispersion of large estates, and they believe that owing to this policy the small ownerships, which have been absorbed from time to time by large estates, have remained attached to them, and have been thereafter and generally only purchasable in large masses.”



An illustration is supplied, in the evidence given before the Select Committee, of this accumulation of a great estate, at the expense of a large number of small ownerships, in the case of a single property in the county of Westmoreland, a district where a large class of small yeomen survived till comparatively recent times. This great property consists of 25,000 acres. It was gradually accumulated and purchased under the express direction of the will of a man who, two generations ago, made a large fortune in trade, and whose only daughter married a nobleman. The estate was made up of 226 different purchases, nearly all of them cases where the vendors belonged to the class of yeomen farmers, or statesmen, as they are called in that district, who, themselves and their ancestors, had cultivated their own lands for many generations. Instead then of 226 distinct owners of land, there is now a single owner.

It may safely be assumed, in respect of this great property, that, under the existing system of family entail permissible by law, it will for generations to come remain intact in a single ownership; that it will be the subject of successive family settlements aiming at its perpetuation in the same family; and that, if at any future time it should be necessary to sell it, it will probably be found that, with the prestige and influence it confers on its owner as a landed magnate, with the amenities it offers, and the enjoyment it affords of game preserving on a large scale, it will command a higher price in the market if sold as a great estate in a single lot, than if broken up



into many lots, so as to tempt a number of small owners, and to recreate the community of small yeomen who formerly existed here. This was well illustrated by the case of a recent sale of a great family estate—that of Savernake in Wiltshire, consisting of 35,000 acres. It was sold by the tenant for life, and against the wish of the next in the reversion to it under the settlement, who was anxious that the property should be retained in the family. The tenant for life had full power to sell the greater part of the estate under the provisions of Lord Cairns' Settled Estates Act, but he could not sell the family residence or the demesne lands, without the consent of the next in succession in the entail, or of the High Court of Justice. It was represented in court that the farms could not be sold separately from the residence and demesne lands, and that the property would command the best price if sold as a whole. The judges authorised the sale of this great estate in a single lot, for the sum of £750,000, on the ground that it was to the interest of all the persons living upon it, whether tenant farmers or labourers, that it should be transferred to a man of large means, able to do justice to the property, rather than remain for some years in the possession of the tenant for life, who was in embarrassed circumstances and unable to maintain it in the manner which was desirable in the interest of all concerned. The case shows that, even with full freedom of sale, there are many difficulties in the way of the dispersion of great estates, and that, when once aggregated, it is more probable that they will be sold *en bloc*, if necessity for sale

arises, than cut up into small holdings for sale in detail.

As a matter of common experience, it may be stated that while the process of aggregation into large estates has been going on continuously in every part of the country for generations, the process of breaking up a great estate and its dispersion among numerous holders has been comparatively rare, except where the land has become suitable for building purposes; and even in such cases the land is generally let on long building leases rather than sold outright. Purely agricultural estates, lying in a ring fence, are very rarely broken up into lots. It is probably considered that the process would detract from the value of the whole estate, and that, having regard to the conditions of rural life and to the amenities, privileges, and influence attaching to large properties, a better price is obtainable for the estate when sold as a whole than when cut up into many lots.

#### NUMBER OF LANDOWNERS.

The actual condition of the ownerships of agricultural land in England and Wales is this—Their total area is 37,320,000 acres, of which 33,013,000 only are accounted for in the Return of Landowners issued in 1870. A careful examination of this return has shown that about one-half of this area is owned by 2,250 persons, each with estates of over 2,000 acres, and averaging 7,300 acres each; 1,750 other persons own between 1,000 and 2,000 acres each, with an aggregate of

2,500,000 acres ; 34,000 persons own between 100 acres and 1,000 acres, with an aggregate of 8,926,000 acres ; and 217,000 persons own from 1 acre to 100 acres, with an aggregate of 3,931,000. The difference between the aggregate of these ownerships and the total acreage of England and Wales represents land held in mortmain by the Crown, the Church, Charities, Universities, Colleges, and Schools (believed to amount to about 2,000,000 acres), waste and common land, woods and plantations, land devoted to public purposes—such as roads, railways, etc.—and land occupied by towns.

There are about 12,000 rural parishes in England and Wales, averaging about 2,500 acres each. It follows, then, that 2,250 persons own between them an average of about  $2\frac{1}{2}$  rural parishes. It would be interesting to know how many of the 34,000 persons owning between 100 and 1,000 acres are of the yeoman farmer class and make their living by cultivating their own land ; and how many, also, of the 217,000 owning between 1 acre and 100 acres may be classed as peasant proprietors, cultivating their own land and living wholly by it. The agricultural statistics throw no light on this subject. Of the class of owners between 100 acres and 1,000 acres, it may be confidently stated that a very small percentage make their living by cultivating their own land. In the larger class of 217,000 persons owning from 1 acre to 100 acres are included a vast number of persons owning villas with land attached, which they cultivate themselves, not with the object of making a living from it ; it includes also a very large

class of small proprietors, village tradesmen and others, not making a living out of the land, but employing it as an adjunct to their other business. It may be assumed here, also, that the number of peasant farmers living wholly by their land is extremely limited.

In the Kentish parish where the writer lives, consisting of about 2,400 acres, where the land is fairly distributed and is purely rural, and where from the growth of fruit it might be expected that small owner-ships would be cultivated to advantage, there is not a single case of a peasant owner making a living out of his land. There is but one case of a yeoman making a living out of his land. There are eight or ten cases of village tradesmen owning small holdings of land of from one acre to ten acres, and cultivating them for profit, but not making a living out of them. There are a few cases of retired tradesmen who have bought land of from two acres up to twenty in the parish, and who cultivate it partly for profit, partly for amusement, but who do not make their living out of it. These two last classes are of great value in the social and economic condition of the parish, but they are not yeomen or peasant owners in the true sense of the terms. If this be the condition of a rural parish in Kent, a county once renowned for the number and wealth of its yeomen, what must it be in other parts of the country where large properties prevail?

The writer had a recent opportunity of making inquiries into the condition of landownership in a purely rural district where large properties prevail—namely, in the Parliamentary division of North Dorsetshire.



The division consists of 92 parishes, containing 166,200 acres, with a rateable value of £319,700. Of these, 62 parishes belong, substantially, each to a single owner, or are divided between two adjoining owners. In 23 others, more than three-fourths of the land belongs to great owners. In the remaining 7, a great portion of the land belongs to two landowners. There are only 2 parishes out of the 92 where the land can be said to be owned by many persons; four-fifths of the land in the whole division belongs to thirty persons. One landowner owns substantially the whole of nine parishes and the half of six others. Another owns the whole of three parishes and the half of two others. Four others own the whole of two or three parishes and the greater part of two or three others. With the rare exception of a house here and there, the villages belong to the great owner of the district equally with all the land. It is a district where the English system prevails exclusively. The landowners are men of large means; they are mostly resident. They are in good relations with their tenants. There is no complaint of bad management or neglect of duties. The district is conspicuous for the almost complete extinction of small ownerships, whether of land or houses.

The ideal, then, of the English land system in a rural district is that which has been attained in the district of North Dorset, just referred to, and in many other parts of the country. It is that of a large estate where the whole of one and often of several adjoining parishes are included in it; where there is no other

landowner within the ring fence; where the village itself belongs to the same owner as the agricultural land; where all the people of the district—farmers, tradesmen, labourers—are dependent, directly or indirectly, on the one landowner, the farmers holding their land from him, generally on a yearly tenancy, the labourers hiring their cottages weekly or yearly either from the landowner or from the farmer; and where the village tradespeople are also dependent largely for their custom on the squire of the district, and hold their houses from him. It is believed that this ideal has practically been attained in more than half the rural parishes of England and Wales, in the sense that all the land and houses within them substantially belong in each to a single owner. In very large numbers of cases a single landowner possesses the whole of several adjoining parishes, or of several parishes in different parts of the country.

#### CONSOLIDATION OF FARMS.

The same causes which have thus powerfully affected the condition of ownership of land in rural districts have also produced corresponding changes in tenancies—as regards the size of the farms. The aggregation of large estates has led to the consolidation of small holdings into large farms, and to the general disappearance of small tenancies. The practice grew up at an early time in England, for the landlords to effect all substantial and permanent improvements on the farms in their possession, to erect and maintain the farm buildings

and cottages, and to drain and fence the land. The erection and maintenance of houses and farm buildings for a large number of small holdings was found to be a very costly operation, involving a constant drain upon the resources of the landowner. It was far better for him to consolidate the holdings into large farms requiring each a single house and farmstead. Here, again, economic causes assisted in the general movement towards larger farms. It was also believed that farms of such a size as to enable machinery to be used in substitution for hand labour could be more profitably worked than small farms depending upon manual work. The enclosure of commons also affected small tenancies equally with small ownerships, and made great numbers of them unprofitable.

This process of consolidation is well described in the Report of the Committee on Small Holdings, already referred to :—“As regards small tenancies, the diminution has been chiefly due to the practice of consolidating farms, which prevailed almost universally for a generation previous to the recent agricultural depression. This policy was formerly enjoined on the landowners on economic grounds. It was pointed out that the expense of keeping buildings in repair is much greater in proportion on small than on large farms ; and that the employment by machinery of the best agricultural methods is facilitated by the single management and cultivation of a large area. The contention was that small husbandry was barbarous and antiquated, like the process of hand-loom weaving ; and that agriculture, like



manufactures, should be carried out on a large scale and under the most scientific conditions. These views have been partly modified by recent experience, and many landowners and agents would gladly revert to the system of smaller farms, and they are doing so where practicable. The great obstacle, however, is the want of buildings and the necessity of expending a large capital, which few landowners are in a position to provide, and which would not afford a sufficiently remunerative return."

In speaking of small farms the Committee probably intended to refer to holdings of from 40 or 50 acres to 100 acres, and not to smaller holdings of from 5 to 40 acres, where the tenant is rather a labourer working the land himself, than a farmer in the common sense of the term. Except in the neighbourhood of large towns, or large wastes, the class of very small tenants making a living wholly by the land has all but disappeared. What small tenancies still exist are generally in connection with some other rural industry, to which the land is an adjunct rather than the main source of profit. The village blacksmiths, carriers, butchers, and other tradesmen, often hire a few acres of land near the villages in which they reside, finding it useful for their business and an occupation for their spare time. If arable or fruit land, they generally employ labourers to do the manual work required. In the Kentish parish already referred to there are several cases of small tenancies of this kind. There are very rare cases of men living wholly by their labour upon small holdings of from 5 to 40 or 50 acres, certainly not more than four

or five, and it cannot be said that these men are working to any profit or advantage. Several cases have occurred in the same parish, in which men attempting to make a living out of small holdings have failed and have been compelled to fall back into the ranks of labourers. In the parts of Lincolnshire already referred to, there are many cases of small tenancies mixed up with small ownerships; but speaking generally of the whole country, it may be said that the class is all but extinct.\*

The Agricultural Statistics throw little light upon the number of small tenancies of this kind still existing. They state the number of persons occupying agricultural land and making returns in England and Wales at 415,000, of whom 236,000 hold under 20 acres and above  $\frac{1}{4}$  acre. They do not, however, state how many of these are the owners or tenants of villas, or are village tradesmen hiring land as an adjunct to their other occupations; nor do they indicate how many of these holdings are allotments of above  $\frac{1}{4}$  acre. It appears, however, from the census of 1881 that there are 225,000 persons who return themselves as farmers. Deducting this number from the 415,000 persons who make agricultural returns, it would appear that there are 190,000 persons who make returns, but have some other occupation than that of farmers. Deducting from the 225,000 persons returning themselves as farmers the 179,000 persons holding land above 20 acres in area, we arrive approximately at

\* Sir John B. Lawes has informed the writer that in his parish in Hertfordshire there is not a single case of a tenant of under 50 acres making his living wholly out of the land, and that an experienced land agent has told him there are not ten such cases in the whole county.

46,000 tenants and owners of land of from  $\frac{1}{4}$  acre to 20 acres, who return themselves as farmers. It is probable that these include large numbers of persons who have other means of living, and who do not depend upon the land which they cultivate.

Of tenancies from 40 to 100 acres, there are still some parts of the country—notably in the Dales of Yorkshire, and in parts of Lancashire, Devonshire, and Wales—where there are large numbers. These tenants form a class intermediate between the large farmer employing labourers, and the agricultural labourer. Where such men are dairy farmers, they perform the main portion of the work on the farm themselves, with the aid of their sons and daughters. There are districts in which these small farms prevail, and where there are very few agricultural labourers in the ordinary sense of the term. The process of consolidation has not proceeded so far as to have caused the extinction of this class; and with the altered views of landowners, since the agricultural depression of recent years, it appears probable that this class will rather increase in the future than diminish. Throughout the chief agricultural districts, however, and especially in the arable districts, the small farms have been largely reduced in numbers during the last fifty or sixty years, and in many parts have almost ceased to exist. In such districts the distinction between the three classes of landowners, farmers, and labourers is complete and absolute, and there is little prospect of the farmer becoming landowner, or the labourer becoming farmer.

## RESULTS OF SYSTEM.

When illustrated by its best examples, the ideal of the English system of large ownerships and large farms, and of complete separation between the three classes of owners, farmers, and labourers, exhibits many excellent results, which certainly must not be overlooked in any impartial review of the results of the system as a whole. The landowner, in such a case, is a man of ample means, owning a great extent of land extending over the whole of two or three or more parishes, including the villages within them. He resides on the property during the greater part of the year. He is not dependent wholly on his income from the land; he has other property from which he can support the necessary outlay on a large estate; he is well able to afford the capital expenditure for improvements of all kinds, for the building of houses and farmsteads, for draining and planting the land, and thus to relieve his tenants from any expenditure of a permanent character. The farms are let at moderate rents—not rack rents, but such as, taking a long range of good and bad years together, the tenants can reasonably be expected to pay. He is also in the habit of making large abatements of rent in years of exceptional loss. The tenants in such a case reserve their capital for the ordinary farm cultivation; they feel that they can rely on the landlord for any capital expenditure for new buildings or other improvements; they hold as a rule on yearly tenancies, but they have confidence in the long-established practice and traditions of the estate, and in



the honour and good faith of the owner. They know that they will be allowed to remain as tenants as long as they do justice to the land, and that on quitting their farms they will be treated with every consideration.

Such a landowner undertakes himself the charge of all the labourers' cottages on the estate, whether for building or maintaining them. These cottages are often very decidedly superior in accommodation and comfort to the dwellings in which labourers of the same class reside in towns, or which they would be content to provide for themselves, if they had the means of doing so; they are also far better than the cottages which some speculator has probably built on a small freehold, which he has acquired in some neighbouring parish. The rent charged for these cottages to the labourers is extremely small, not more than 1s. or 1s. 6d. per week, a rate which pays less than two per cent. on the capital expended on them. The cottages have gardens attached to them of from  $\frac{1}{4}$  to  $\frac{1}{2}$  acre each; in addition, the cottagers may have allotments of land near to the village, if they desire them, at farm rents, to the extent often of three acres a-piece. In return for such good cottages the landowner puts the tenants under some restriction as to sub-letting them. The landowner sets an example of liberality by paying wages to the men in his own employment somewhat above the market rate. By keeping in his own hands the cottages, he prevents the labourers being too much under the subjection of the farmers. This model landlord often farms himself a part of his demesne, gives an example of high cultivation, and encourages the breeding



of good stock. He keeps in hand all the woods and plantations ; he preserves game on a moderate scale, and directs his keepers to keep down the rabbits and hares to the utmost, not interfering also with the concurrent right of the tenants to kill the ground game.

In such a case, something more than the rents received from the district is often expended in maintaining the mansion and gardens, in supporting the local tradesmen, and in maintaining and improving the land and buildings ; the family of the landowner are active in their charities among the poor ; they work in concert with the clergy ; there is a kind of moral supervision maintained over the whole district ; bad characters and known poachers are gradually shunted from it ; it is found to be better to deal with such men by quietly getting rid of them, than by prosecuting them at the petty sessions. The landowner maintains the schools at his own cost, and prevents their falling upon the rates. He exercises a considerable control over the public-houses within his domain, which are often his property ; he limits their numbers according to his idea of the wants of the district.

The government of such a parish or district is practically carried on by the landowner with the aid of the clergyman and the land-agent. It is in the nature of a paternal government, an enlightened despotism on a small scale. As all the inhabitants within the range of the large estate are dependent on the one landowner, whether they be farmers, tradesmen, or labourers, none dare oppose his wishes or question his decisions ; all know

that their continued residence in the place of their birth is mainly dependent on his goodwill and pleasure. The head centre, on his part, has an hereditary appreciation of the value of local popularity, resulting from just, considerate, and liberal treatment of all dependent on him. It would be easy to enlarge on this idyll of a rural community. A consideration of its details taken at their best will show how necessary for its realisation and perfection is the complete and absolute ownership on the part of the lord and master of all the land and all the houses within the limits of his estate, and accounts for the completeness with which all rural freeholds within such range, however small, have been bought up and merged in the principal estate. A very few freehold houses vested in some independent hands, would interfere with the chain, which binds the whole of the district into one harmonious whole, with the landlord as its centre.

There cannot be a doubt that there are very numerous cases in all parts of England, where this ideal of the English system of landownership is attained, and where the landlords, who form the local centres of their system, and preside over the paternal government of all around them, perform their part according to the high standard thus indicated. When treated in this manner, it cannot be said that the position is a profitable one to the landlord from a pecuniary point of view. The outgoings are very heavy, the expenditure on improvements and on maintenance of the estate bearing a very large proportion to the gross rent received. There are very many large estates where the rents, reduced as they

have been in consequence of the agricultural depression of the last twelve years, are little more than a fair rate of interest on the expenditure in improvements effected during the last thirty or forty years, and where the true economic rent, apart from such interest, has wholly disappeared. It is, however, only the very wealthy landlords, those with large and fairly unencumbered estates, or those who derive a part of their income from other sources, who are able to act up to the highest ideal of the system. There are great numbers of landowners who have not the means to do so, whose estates are mortgaged and encumbered with family charges, and who have but a small margin on which to live, let alone the expenditure on improvements.

At the opposite end of the scale to this ideal, it must be admitted that there are not a few cases where the great landlord is non-resident; where the estates are so mortgaged and encumbered with family charges that there is little margin for him to live upon; where he is unable or unwilling to expend money in improving the property or even in maintaining it; where the farmhouses are falling into disrepair; where the cottages are insufficient in number and accommodation, and are in an unsanitary condition; where either they are much overcrowded, or the labourers employed on the estates have to walk daily several miles to and from their work; where the rents are gathered from the district and expended in paying interest on debt or family charges, or are spent in London or Paris, or on the racecourse, by the owner; where everything on the estate is left to the arbitrary

decision of the agent; where rack-rents are screwed out of the tenants, who are also treated harshly and capriciously; where game is preserved unduly to the damage of the farmer's crop, and the right of sporting is let out to game tenants; where wages are low, and a large proportion of them or of the farmer's profits is spent at the too numerous public-houses.

In such cases the district, which is subject to the sway of such an owner, suffers in the same degree and proportion as in the other extreme case it gains by the wise administration of its chief. The system, however, cannot be judged, and approved or condemned, either by its best or its worst exemplars. Between the two extremes there is every degree and every possible variety, and it is no easy matter to draw a balance between the advantages and disadvantages, between the good and the evil of the system, with a view to approval or condemnation.

On the assumption that large farms can be more economically worked than small farms, there is much to be said in favour of large ownerships. The farmers in this country have not, as a rule, sufficient means to enable them to purchase the freeholds of their farms, and at the same time find working capital for their farms. The purchase value of an average farm of 400 acres is certainly not less than £10,000. £6,000 of this might be left on mortgage, but the purchaser would have to find £4,000 besides the working capital of £3,000—a total of £7,000—which very few farmers could do. Those who have the money, as a rule, prefer



to hire a larger farm, and to use the whole of their capital in working it, rather than to purchase the fee of a smaller farm. Similarly, a farm of 100 acres would cost not less than £2,500, of which £1,500 might be borrowed; the working capital should be £800, making a total required of £2,300. A farmer having this amount of capital will generally prefer to hire a farm of 300 acres, which will give him a wider scope for his energies and a larger profit. It would appear that the farmers in England, as a class, are content to remain as tenants, and prefer to hire farms on a large estate, with a well-settled practice, under which they may rely on equitable treatment, and where they are supported by the common interests and feelings of their fellow-tenants, rather than hold a single farm under a small owner of land, where there are no traditions on the property, and there is no public opinion to control the action of the landlord, and where the treatment may be arbitrary and capricious.

Under this system of comparatively large farms and large ownerships, English agriculture has undoubtedly attained a high excellence, and has developed an industry of farming on a large scale of great economic importance. A few years ago it undoubtedly stood in the front rank in the agriculture of Europe, and probably produced more per acre, in the case of large farms, than was the case in any other country. It has suffered severely during the last twelve years of agricultural depression; but under any other system of landholding, the agricultural producers would probably have suffered.



The English landowners have bravely borne their share in these bad times, and, as a rule, have not stood upon their legal rights, but have made great remissions of rent in the hope of enabling their tenants to tide over the crisis. The large farmers have undoubtedly suffered most in this crisis ; the small farmers, who work themselves on their farms, and who live on their produce, have passed through it with far less difficulty, as a rule ; and many landlords have had reason to regret that they were induced in preceding years to consolidate their small farms into larger holdings, and would gladly revert to times when a much greater proportion of small holdings existed. The nearly universal system of large farms, with their strict covenants between landlord and tenant, enforcing a particular course of husbandry, has also, it seems, had the effect of limiting enterprise and preventing the cultivators striking out new lines and adapting themselves to new conditions. It has been said by Lord Wantage, one of the largest landowners in England, who himself farms on a great scale, that—

“ more varied enterprise can alone enable the agriculturalist of to-day to hold his own against the difficulties and discouragements that beset him. Too great reliance upon one branch of farming, and the neglect with which the British farmer has hitherto treated such minor industries as dairy farming, poultry breeding, fruit growing, etc., have contributed largely towards bringing about the present unsatisfactory state of things.” \*

#### EFFECT ON LABOURERS.

It is from the labourers' point of view, however, that

\* “ Small Farms ; ” *The Fortnightly Review*, Feb., 1887.

the gravest doubts arise as to the merits of an exclusive system of large ownerships of land and large tenancies. It has already been shown that the system has tended very greatly to the consolidation of farms, and to the disappearance of small holdings. The labourers, therefore, have lost, to a large extent, the opportunities which they formerly had of rising from their position to that of tenants, and thus of mounting the ladder of the social system in rural districts. There has arisen, consequently, in many wide districts, a gulf between the class of labourers and that of farmers. The labourers feel that, no matter what their industry and intelligence may be, they have little or no hope of raising themselves, so long as they remain in their native villages. They are conscious that they live under a system of paternal government, where there is no possibility of arriving at a position of independence; where their very existence in the place of their birth depends on the will of the ruling power of this district; and where, if they offend, they may be driven from their homes by the impossibility of obtaining employment. This does not satisfy the hopes and ambitions of the new generation, who are growing up in rural districts under the influence of popular education and of a cheap press. The system, in fact, is one of dependence from which there is no escape, except by leaving the district. It is antagonistic to the democratic principles of modern times, which demand a greater approach to independence and equality, and the opportunity of rising in the social scale. It is in part due to this that there is discontent,

even in those districts where the system is carried out in the best possible manner, and where there is the utmost desire to do his best on the part of the great owner of the district. It is one of the causes which induce the most active, ambitious, and independent of the young men in such a rural district to leave it, and to seek their fortunes elsewhere, where there is greater freedom of action and thought, where they can hope to find in the battle of life greater scope for their energies, and better openings for their ambition. It is for the same reason that there is a tendency in such districts to a deterioration in the working population, and that complaint is often made that the residue, who are left behind, are composed of the listless, the unambitious, the least able-bodied, and of the older and worn-out labourers. If this be the case on the best-managed estates, how far more so must it be on the badly-managed properties, where the central figure of an enlightened, philanthropic, and sympathetic landowner is wanting, and where there is no one with a clear perception of his duty to the people of the district, or with the means of properly carrying it out.

It must not, indeed, be supposed that the conditions of land tenure and the absence of opportunities of bettering themselves are the only motives for the exodus of the most active among the labourers of our rural districts. We find in most other countries in Europe, in the United States, and in the Colonies, that there is a growing tendency on the part of the population to aggregate in towns and to abandon the purely rural districts.

In England the movement has been aggravated also by the recent depression of agriculture, by the laying down in grass of a large proportion of arable land, with the consequent diminished work for labourers, by the decay of rural industries, due to the concentration of manufactures in large towns, and generally by the low rate of wages in agricultural districts; there is also a constant demand, at high wages in the larger towns, for strong and healthy men, which the rural districts can best supply. The railways and the police force also offer the attractions of high pay and pensions to the best of the younger men in our villages.

Making, however, every allowance for such other inducements, it cannot be denied that the conditions of land tenure, and the absence of sufficient opportunities of rising into the class of small farmers, are among the most important causes of the exodus of the better class of labouring men from the rural districts, and are such as must be considered and dealt with by the Legislature. The monopoly of landownership over such wide parts of England and Wales, the complete separation of the three classes of owners, farmers, and labourers, the disappearance of small farms by which the labourers can rise from their position, the absence of the class of yeomen and of small owners of land, form a condition of things now generally admitted to be abnormal and regrettable. It is not one which is likely to develop the best energies of individuals, nor is it one which can be regarded with satisfaction by those who believe in the general expediency and utility of individual property



in land. Such a system also cannot be safe where the owners are so few in proportion to the numbers of other classes; and it might be well worth while to sacrifice even something of economic perfection, in order to multiply the owners of property, and to give greater play to individual energy.

It may well be questioned, then, whether a more mixed system would not be preferable in the general interest of the community, one where property in land would be distributed among a greater number of owners, where intermixed with large properties there would be many small ownerships of all sizes, and many tenancies of varying extents, by which the labouring men of the district might hope to rise from their status to higher positions in life. Such a condition of things would not necessarily be inconsistent with the retention of the best features of the present system. There might be many cases of large estates the owners of which would maintain relations with their tenantry on the enlightened principles referred to, and at the same time, there might be clustered round such larger properties many small properties of varying sizes.



## CHAPTER II.

### RECENT LAND REFORMS IN ENGLAND.

PARLIAMENT has made many efforts during the last thirty or forty years to reform and improve the system of land tenure which has been thus described. It has recognised the defects which have been pointed out, and has endeavoured to apply remedies. It has passed measures having for their object the application of capital to entailed and encumbered properties; the facilitating of the sale of such properties, so that they may pass into the hands of persons better able to improve them; the giving of greater security to tenants for outlay on their farms; the protection against game; the improvement of the condition of labourers by providing allotments; and lastly, the artificial creation or re-creation of a class of small owners of land, by the aid of State loans, and through the agency of County Councils. It will be well to pass under review these various efforts of Parliament, and to describe their results, so far as ascertained. They may be considered under three heads: (A) Those affecting mainly the interests of landowners, and aiming especially at the application of capital to the land for its improvement in respect of those matters which are generally effected by

landlords, the freeing land from the fetters of entail, and making it more easily and more cheaply saleable ; (B) those affecting specially the interests of the farmers by giving them greater security for their capital invested in the land in farm operations ; (c) those having regard mainly to the interests of the labouring people by securing to them the benefits of allotments and small holdings, and of better cottages.

#### A. LEGISLATION FOR LANDOWNERS.

##### (1) LAND IMPROVEMENT ACTS.

(1) The first of these efforts was made in the Improvement of Land Act, 1864,\* by which the tenants for life of entailed estates were enabled to charge their estates with money raised for the purpose of effecting certain definite improvements—such as the drainage of land, the erection of farm buildings, the making of roads, the planting of trees, and the building of cottages. There were two main obstacles, arising out of the system of entailing estates, to the outlay of capital on the land, the one, that these entailed estates were, in very large numbers of cases, burthened by charges and annuities in favour of other members of the family, and by debts accumulated by previous owners, from which it resulted that the ostensible owners of estates with large incomes frequently found themselves with little more than half the income for their expenditure ; and in such cases there was no capital available for improvements and

\* 27 and 28 Vict. c. 114.

no means of raising it by charges on the land. The other was that tenants for life, having only a life interest in their property, would, by laying out capital on the land, improve it for the benefit of their successors, and would lose the disposition, on their deaths, of the capital sum expended on such improvements.

To meet these difficulties it was provided that, subject to the approval of the Enclosure Commissioners (now the Agricultural Department), the tenant for life might, without the consent of the reversioner, charge the fee of the land, and therefore the interest of his successor, with the capital sum expended on improvements, subject to the charge being paid off by equal annual instalments within a certain number of years, varying according to the nature and duration of the improvements. Certain Land Improvement Companies obtained special powers from Parliament for advancing money for such purposes, and for charging settled estates with annuities for terms of years for repayment of the same in priority of all other charges. There is no doubt that, so far as it has been availed of by landowners, much good has been effected under this Act; but the system is applicable rather to the larger estates which can bear the cost of obtaining the approval of the Land Department, a process involving the employment of lawyers and agents.

A difficulty incidental to the system is that a Government Inspector, rather than the owner of the land, determines the nature and extent of the improvement of the estate. All the plans of buildings, cottages,

drainage, and fencing must be submitted to him and approved. This tends to cause delay, friction, and difficulty, and many owners are deterred thereby from availing themselves of the powers of the Act. The excuse for thus interpolating the consent of the Land Department is that, otherwise, the interests of the successors in the entail might be prejudiced. The annual charge for repayment of the capital sum, on the terms prescribed by the Act, or by the Land Department, added to the interest on the capital, is generally heavy, and disinclines many people from taking action under the Act. For these reasons the Act, though beneficial, has not succeeded in making any great impression on the amount of improvement which might be effected on entailed estates. The scheme may be considered as an attempt to bolster up the system of entails by an artificial method of bringing capital to the land. The failure of these Acts cannot be better described than in the language of the Report of a Select Committee of the House of Lords in 1873, drawn up by its chairman, Lord Salisbury :—

“The general result,” it said, “of the evidence is to show that, although considerable use has been made of Improvement Acts, and extensive improvements have been effected under them, the progress has not been so rapid as was desirable, and that what has been accomplished is only a small portion of what still remains to be done. Mr. Bailey Denton states, as the result of his calculations, that out of 20,000,000 acres of land requiring drainage in England and Wales, only 3,000,000 have as yet been drained. Mr. Caird, the Enclosure Commissioner, speaking not only of drainage but of all kinds of improvements, estimates that we have only accomplished one-fifth of what requires to be



done. The case for Parliamentary consideration lies in this—that the improvement of land, in its effect upon the price of food and upon the dwellings of the poor, is a matter of public interest; but that, as an investment, it is not sufficiently lucrative to offer much attraction to capital, and that, therefore, even slight difficulties have a powerful influence in arresting it.

“The interest at which the land companies lend is usually  $4\frac{1}{2}$  per cent. The sinking fund, to repay the loan in twenty-five years, together with the interest, bring up the average payment upon the effective outlay to a little more than 7 per cent. It will appear that sometimes, though not in all cases, the tenants will pay to the landowner, in the form of rent, the full 7 per cent., which he pays to the company. In that case the landowner is for twenty-five years neither the gainer nor the loser upon the transaction. At the end of that time, if the drains are effective, he gains the whole 7 per cent.; but this consideration is by no means a certainty.

“On the balance-sheet of cottages it is unnecessary to dwell. All witnesses agree that, apart from any land that may be attached to cottages, no pecuniary profit is to be obtained from building them.

“The average rent which they will bear after provision for maintenance appears not to exceed  $2\frac{1}{2}$  per cent. The replacement of bad cottages by good is an even less remunerative operation.

“A complaint against the existing system is directed to the functions of the Enclosure Commissioners. A needless minuteness, and a rigour which refuses to bend to local requirements, are imputed to it. It is manifest, indeed, from the desire of the Commissioners and their inspectors, that the latter claim a control so complete over the execution of the works as to leave little discretion to the landowner or his agent. In the selection of sites, in the arrangement of plans, in the choice of materials, in the drawing-up of specifications, it is no unusual thing for the inspector to take a view opposed to that of the landowner and



his agent ; and whenever this emergency arises the landowner must give way. Mr. Parkin, an experienced solicitor, says :— ‘ I find from my experience that landowners do not like the interference of surveyors and inspectors sent down from public bodies. Control of any kind, however wise the controlling power may be, especially when it comes from a public official, is distasteful to men in the management of private affairs ; and where the profit of an operation is small, the necessity of submitting to such control may be sufficient to deter men from undertaking it.’ ”

It is not to be wondered at, then, that the transactions under these Land Improvement Acts have been small in proportion to the work on improvements of all kinds which remain to be undertaken ; and that few landowners, except those with very large estates, care to avail themselves of them, and to submit themselves to the control of the inspectors of the Agricultural Department.

During the twenty-eight years which have elapsed since the Land Improvement Act of 1864, the sum of £12,115,000 has been expended, with the approval of the Land Commissioners, on drainage, farm buildings, labourers’ cottages, and other agricultural improvements, and has been charged under the Act upon the fee of the land, in priority to other charges and mortgages, the money being provided for either by the several improvement companies under their special Acts, or by the landowners themselves under the Act of 1864. This is at the rate of about £432,000 a year. During the last ten years the average has been £251,000 a year, and in 1891 the amount was £124,000, figures

showing that the tendency is towards a diminished expenditure. Of the £12,115,000, £4,920,000 has been expended in drainage, £4,490,000 on farm buildings, £1,017,000 on labourers' cottages, £498,000 on owners' residences, and £425,000 on fences and embankments; the residue in minor agricultural improvements. Since the Settled Land Act of 1882 there have been 1,065 cases in which trust moneys have been expended on the improvement of entailed estates, under the certificate of inspectors appointed by trustees, with the approval of the Board of Agriculture, the amount of such expenditure not being stated.

## (2) THE SETTLED LAND ACT.

The next, and far the most important, step which has been taken by the Legislature for many generations past, to free land from the fetters of entail, and to make it easily saleable, so as to facilitate the multiplication of landowners, was that taken in Lord Cairns' great measure—the Settled Land Act of 1882.\* This Act is founded on the principle that entails of real property are not to be regarded as mere family compacts, but as matters affecting national interests. While maintaining the principle of family settlements, it endeavours to make real property and personalty interchangeable. It gives power to the tenant for life of any entailed or settled estate to sell the land, subject to the entail, without the consent of the reversioner and

\* 45 and 46 Vict. c. 38.

without even the consent of the trustees of the settlement, dispensing, also, with the necessity of an application to the High Court of Justice, which previously was necessary before any such dealing with a settled estate. It directs, moreover, that the proceeds of the sale of the land shall be invested in trust for the same purposes as those directed by the settlement. The money, however, may be devoted to paying off encumbrances of the estate, redeeming the land tax, or satisfying any other charges or legal claims on the land, or to effecting specified improvements on the property (subject to the approval of the Agricultural Department), and finally to investments, such as are permissible by law in the case of trust moneys held by trustees. The power of sale of land is unrestricted, except in the case of the principal family mansion, or any park or demesne land usually occupied with it; in such case the sale can only be effected with the consent of the trustees of the settlement, or by the order of the High Court.

This measure is a most valuable one, not merely in its practical working, but also on account of the principle which it recognises and enforces. It affords a practical admission that there is great economic evil in the tying up of landed property under an entail or family settlement, where family charges and mortgages or his own debts impoverish the tenant for life, and prevent the proper application and outlay of capital for the improvement of the estate. It recognises the principle that it is better for all concerned, better for the

tenants and labourers of the estate, that under such conditions the land should be sold, and should pass into the hands of those who are more likely to do justice to it, by expending money upon its improvement and maintenance. It has struck a heavy blow at the system of entails and settlements, for the main object of these arrangements has been to concentrate land in the successive heads of the family, with a view to the perpetuation of the family in the hierarchy of landed magnates, rather than to enrich the one at the expense of the other members of it; and when it is found that the tenant for life can in most cases sell the land without the consent of the reversioners, and in all cases with the consent of the Court, and convert it into money, much of the motive of such settlements will be removed. It has already been shown, in the case of the Savernake property of Lord Ailesbury, that the judges are disposed to take a broad view of the public policy of this Act, and will direct the sale of a great family estate, including the mansion and demesne lands, against the strong opposition of the reversioner, where it is clear that the tenant for life is so encumbered that he cannot do justice to the property.

Eleven years have passed since this great measure passed into law. It cannot be said that it has had at all the effect expected of it. The sales of settled land have not been numerous as yet. Two causes have operated against them: the one, the very limited scope for the investment of the proceeds of the sale of settled land. The inducement to sell land for the purpose of



investing in consols producing only  $2\frac{3}{4}$  per cent., or in the few investments at a low rate of interest permissible to trustees, is not great. The other, more potent, cause has been the agricultural depression of the last few years, which began in 1879, and which has not yet, it is to be feared, reached its limit. The result has been a very serious depreciation in the market value of land in England and Wales. Rents have been greatly reduced; and as the prices of wheat and some other agricultural products still show a tendency to fall, no one can yet say that rents have reached their lowest point. In the meantime, there is great stagnation in the market for land. Investors are not forthcoming even at the greatly reduced price at which land is now offered, and many landowners, who would gladly avail themselves of the facilities offered by the Settled Land Act to sell portions of their entailed estates, are unwilling to do so at the present prices, and are awaiting a more favourable opportunity. It may be expected that whenever there is a revival of confidence in the stability of rents, and when there is a greater demand for land for residential purposes, there will be far more numerous transactions under Lord Cairns' Act.

### (3) LAND TRANSFER.

Other efforts have been made to simplify titles to land, and to make its transfer more simple and less costly. In 1862 Lord Westbury's Land Transfer Act\* was passed for the purpose of registering titles, as distinguished

\* 25 and 26 Vict. c. 53.



from the system existing in some parts of the country, such as Middlesex and York, for registering deeds. The Act was merely permissive, and for other reasons was a failure. In 1875 Lord Cairns made another attempt, and carried the Land Transfer Act of that year, establishing a system of Registration of Titles—either of an absolute title after examination, and a certificate by the registrar, giving an indefeasible title in the future to all persons deriving through the person first registered, or of a possessory title, where the property is registered on a *prima* case, but without examination in detail by the registrar ; in this case the title becomes indefeasible after the lapse of a certain number of years. In both cases all subsequent dealings with the land must be registered. The proceedings are of a very simple and uncostly character. The system closely resembles that known as Sir R. Torrens' scheme, adopted in Australia. Registration under this Act is voluntary, not compulsory. It has resulted that the system has been adopted to a very small extent only. In the seventeen years which have elapsed since the passing of this measure, about 250 titles only have been registered. This failure is due, in part, to the expense of getting an indefeasible title in the first instance, where, in addition to the fees of the registration, there are the ordinary expenses involved in the transfer of land by the employment of a solicitor ; and in greater part to the opposition of solicitors, who mostly advise their clients against registering their properties. The experience, however, of those who have availed

themselves of the system is that, when property is once upon the register, the future dealings with it, either by way of transfer, mortgage, or lease, become exceedingly simple and uncostly, and that the system has all the merit and advantages expected of it.

In 1887 Lord Halsbury introduced a most important measure for making registration of Titles, under Lord Cairns' Act, compulsory in all future transactions of land sales. He also proposed to abrogate the law of primogeniture, in the sense of making the distribution of land on the death of its owner, without a will, the same as that of personal property. This measure passed through the House of Lords. Unfortunately, it came before the House of Commons very late in the Session. Opposition was threatened to the provisions for the compulsory registration of Titles, and the Government was unable to give time for passing it. The writer urged that the measure should be divided, and that the portion of it relating to the descent and distribution of landed property on death of the owner, to which there was no opposition, should be passed at once. This the Government declined to do, and the measure was dropped. Two years later, in 1889, the same measure was again introduced in the Lords, but met this time with a different fate. An opposition arose to the measure on account of the clause relating to the abolition of primogeniture, and in spite of the efforts of the Government, it was rejected on its third reading.

Important reforms were also carried in 1881 affecting

the sale of land—the one, the Conveyancing and Law of Property Act,\* by which a great number of simplifications were made in the law, with a view to facilitating the transfer of land, the other the Solicitors' Remuneration Act,† under which power was given to the Lord Chancellor and other judges to fix the rate of remuneration to solicitors, for the sale and purchase of land, according to a scale of rates regulated by the value of the property, and independent of the length of deeds.

#### B. LEGISLATION FOR TENANTS.

##### (1) THE AGRICULTURAL HOLDINGS ACTS.

The Law of England had invested the owners of land with many privileges and rights inconsistent with the due cultivation of the land by their tenants. In the earliest of times, by the Statute of Gloucester, in the sixth year of Edward I., the principle was laid down in the interest of landlords, *Quidquid plantatur solo solo cedit*: “That which is affixed to the land belongs to the land.” On this principle the tenant had no right to claim compensation for his improvements to the land at the expiration of his tenancy, or even to remove them, where possible. If, for instance, a tenant at his own cost should during his tenancy erect a barn, he would not by law be allowed to remove it, just before giving up the land to the owner. If, again, he should plant fruit trees during his tenancy, he could not cut down these trees or transplant them to another property; this would at law

\* 44 and 45 Vict. c. 41.

† 44 and 45 Vict. c. 44.

be considered waste, from which he might be restrained by the landlord. For the ordinary operations of husbandry, such as the manuring and liming of land, the use of artificial feeding-stuffs on the land and the like, there was no common law right to the tenant, on quitting his land, to claim compensation. In certain districts, however, customs had grown up, as between outgoing and incoming tenants, securing to the former, on giving up their farms, compensation in these matters, varying very much according to the course of farming in such districts. In many places these customs were very inadequate. They were recognised as having the validity of law, and were enforceable by the outgoing tenant against the incoming tenant, or the landlord. There was, however, nothing to prevent the landlord contracting himself out of these tenant right customs, and excluding the tenant from any compensation whatever on the conclusion of the tenancy. Where in any district the land belonged to a single owner, he was practically master of the position, and could lay down any conditions of tenancy he might think fit, and he was not controlled or kept in order by the competition of other landowners, or by public opinion.

The position of tenants in England was the more precarious by reason of the almost universal prevalence of yearly tenancies, as distinguished from the leasehold system, which prevails generally in Scotland. This was not always the case in England, for agricultural leases for terms of years were the rule rather than the exception in olden times, and continued to be so till the period of

the last great war with France. The extraordinary rise in prices of agricultural produce, and the great fluctuations during the twenty years of that war, indisposed both landlords and tenants to tie their hands by long leases, and the custom consequently grew up of yearly tenancies, where the rent could be adjusted from time to time, according to the change of prices. In 1832 these motives were accentuated on the part of the landlords by the clause in the Reform Act giving votes, for the first time, in counties to tenants of farms paying rent of £50 and over. Thenceforward the political influence of landlords was measured by the number of farm tenants having votes in respect of their holdings, and such influence was undoubtedly increased when the tenants held merely by yearly tenancies. The extreme importance, also, attaching to sporting rights, which, after the Game Law Act of 1831, were no longer the exclusive privilege of the landowners, but could be enjoyed by persons in other positions, acted as an inducement to landlords to refuse to their tenants longer tenures than yearly leases. It may be also that the increasing practice of settling estates by entails and family settlements operated in the same direction; for the tenant for life could by law give no lease for a period longer than his own life; and it was only in the year 1856 that an Act was passed enabling him to make leases, except in cases where the settlement expressly forbade them.

Whatever the cause or motive, it has undoubtedly been the case that farm tenants of late years have held by no longer tenures than yearly tenancies, and by law they



were entitled only to six months' notice to quit their holdings. It is commonly said that tenants on well-managed large properties, as a rule, prefer these short tenancies to leases for terms of years, considering that the former are renewable yearly without limit, and dreading those periodic revisions of rent, which are the necessary incidents of leases for nineteen years on the Scotch system. The grave agricultural depression of the last twelve years, and the great uncertainty of prices of agricultural produce, have confirmed this system, and it is now undoubtedly the fact that agricultural leases are very rare in England and Wales, and that yearly tenancies are the rule.

It was under these conditions that grave complaint arose, on the part of the farming class, of the extreme insecurity which existed for their capital invested in the ordinary course of their farming operations. In 1875 an Act\* was passed by the Legislature laying down the conditions for compensation to outgoing tenants. Unfortunately, it permitted landlords to contract themselves out of its provisions, and in respect of all then existing tenancies, it enabled landlords to avoid the application of it, by simply giving notice to their tenants within six months after the passing of the Act. It followed that immediately after the measure became law, notices fell like flakes of snow all over the country, and landlords, almost without exception, noticed their tenants out of its provisions; even the author of the Act gave notice to his large body of tenantry that he excepted them

\* 38 & 39 Vict. c. 92.

from its provisions; and only those tenants obtained protection whose landlords, *per incuriam*, had neglected to notice them out of it.

It became necessary to amend the Act, and in 1883 the existing Agricultural Holdings Act was passed.\* It laid down certain scales of compensation to outgoing tenants in respect of ordinary farm improvements—such as the chalking, liming, and marling of land, the application to the land of purchased manure, and the consumption on the land, by cattle, of cake and feeding stuffs not produced on the holding. It provided that, in respect of these improvements, landlords should not contract themselves out of the provisions of the Act, except for the purpose of making more favourable arrangements, and that the Act should override all customs of the country, unless they were more favourable to the tenants. The measure, therefore, made a most important step in interfering with the freedom of contract between landlord and tenant. In respect of more permanent improvements, such as are usually, in England, undertaken by landlords—the erection of buildings, the making of fences, the reclamation of waste ground, the planting of fruit trees or fruit bushes—it provides that compensation shall *not* be paid to the outgoing tenant unless the landlord, previous to the execution of the improvement, has given his consent in writing. In respect of drainage, it enacts that the tenant, before executing the work, shall give notice to the landlord, who may either execute the work himself,

\* 46 & 47 Vict. c. 61.

charging interest upon the cost of it, or come to terms with the tenant; and that only in the event of no terms being arrived at, or of the landlord declining to execute the work, shall compensation be payable.

A scheme of arbitration is laid down for the settlement of compensation claimed under the Act. There is an important clause enabling the landlord, who pays compensation to a tenant for the more permanent improvements, to obtain an order from the County Court charging the estate with the payment, repayable by such instalments as the judge shall direct. The half-yearly notice to quit, in respect of yearly tenancies, was extended to a year's notice, unless the landlord and tenant should otherwise agree. The law of fixtures was also amended in the interest of the tenants, by enabling them to remove any engine, machinery, fencing, or building which they may have erected on the farm. The power of distraining for rent was limited to one year's rent.

The object of the Act was to give the tenants the greatest encouragement for the good cultivation of the land, in respect of ordinary farm improvements, while reserving to the landlord the general direction as to the use to which the land shall be put, and as to the erection of buildings and other permanent improvements. Complaints have arisen in many quarters of the inadequacy of the compensation awarded to outgoing tenants by arbitrators, under this Act, and it may be that inquiry and amendment will be necessary. The question of compensation, however, is rather one between

outgoing and incoming tenants, than between landlords and tenants, and while it is very important that outgoing tenants should be properly compensated for any real outlay on the land, it is also desirable that incoming tenants should not be hampered by large payments for that which does them no real benefit.

(2) THE GROUND GAME ACT.

Another most important measure, passed in the interest of tenants, and interfering with contracts between them and their landlords, was the Ground Game Act, 1880.\* Complaint was made of the destruction caused to the crops of tenants by the over-preservation of hares and rabbits, in the interest of the sporting rights, reserved to the owner of the land, or his game tenant. To those who contended that the tenants could protect themselves by refusing to take farms where they had not the right of killing ground game, it was replied that the reservation of game was so universal on the part of landlords that no man could hope to hire a farm who should insist on this right. It was in the interest of the public, of the production of food, and of general good farming, quite as much as in the interest of individual tenants, that the Legislature thought it right to intervene, and to protect the farmers in the production of their crops, even against their own contracts. The Act accordingly gives to tenant farmers the indefeasible right of killing ground game on their farms, concurrently

\* 43 & 44 Vict. c. 47.



with the landlords. It does not interfere with the right of the landlord to reserve the exclusive privilege of killing other game, or to kill hares and rabbits himself on the tenant's farm, but it provides that "every occupier of land shall have, as incident to and inseparable from his occupation of the land, the right to kill and take ground game thereon, concurrently with any other person who may be entitled to kill and take ground game on the same land." This was undoubtedly a novel form of interference with the right of contract. It was justified and adopted on the ground of public policy, and for the purpose of putting a limit to a practice of over-preservation, which experience had shown the tenant farmers were powerless to provide against by their contracts. It was also contended that, as the Game Laws were, in their essence, trespass laws, in the sense that the offence is not that of stealing the game, but of trespassing in pursuit of it, and as there was great anomaly in allowing persons to prosecute others for trespassing in pursuit of game on land not in their occupation, it was quite legitimate for the Legislature, irrespective of any interference with contracts, to make any limitations it thought fit on the right of prosecuting under the Game Trespass Acts.

The Act appears to have been, in the main, successful in applying a remedy to a great and growing evil. The best evidence of this is the general complaint of the almost total disappearance of hares over large districts of country. In 1892 Parliament took a step backwards



in this respect by enacting a close time for the sale of hares.\* There are cases in which landlords still object to their tenants killing hares and rabbits, and by threat of eviction are able to prevent their doing so; but, as a rule, they have respected the intentions of Parliament, and have been content to leave to their tenants the power of killing these destructive animals.

### (3) PURCHASE OF HOLDINGS BY TENANTS.

Some move has been made in the interest of tenant farmers of England and Wales, in the direction of facilitating their conversion into owners of their farms, by means of loans, on the principle of the Land Purchase Acts of Ireland. As in that country, the first step was taken in the case of Church property. The Ecclesiastical Commissioners, in whom is vested the greater part of the episcopal and capitular estates, have, of their own accord, and without direction of Parliament, sold some of their estates to their tenants. In fact, they never sell property without offering it to the tenants. The terms which they offer are the payment, in ready money, of 15 per cent. of the purchase-money, and the payment of the remainder over a term of years. On these terms they have sold 16,700 acres to 257 tenants for a total of £340,000. Of these farms, 76 were over 50 acres in extent, and averaged about 200 acres; and 181 were under 50 acres, averaging about 9 acres. The Commissioners report that they have got a

\* 55 Viet. c. 8.

better price for their land in this way than they could otherwise have done, and that they have been well satisfied with the payment of the instalments of the purchase-money.

By the 17th clause of the Small Agricultural Holdings Act, this policy is adopted and extended, and County Councils are empowered to advance money to tenants of land of fifty acres and under, or £50 annual value and under, to the extent of four-fifths of the purchase-money, to enable them to purchase their holdings from their landlords. The repayment of this money will be spread over fifty years in equal annual instalments of principal and interest. The money, in such cases, will be advanced by the State, the County Councils being practically the agents for carrying out the transaction. It is too early, as yet, for any results under this clause.

#### (4) THE TITHE ACT.

Another important measure affecting the position of tenant farmers has been the Tithe Act of 1891.\* By the Tithe Commutation Act of 1836 tithes were made payable by the owners of land in the absence of any contract between them and their tenants. It was evidently expected that, as a rule, the landlords would pay the tithe charge, and adjust it in their rents. The reverse, however, has been the case. The almost universal practice has been for the landlords to provide, in their agreements with their tenants, for the payment

\* 54 Vict. c. 8.

of tithe by the latter. In ordinary times, and over an average of years, it matters little to the tenants whether they or their landlords pay this charge ; for in the long run it must be a deduction from the rent. But in periods of depression, due to low prices of produce, and where the tithe charge is high, it is found, in practice, that the septennial average prices, on which the rent-charge is calculated, maintain the rate, through two or three bad seasons, and tithe receivers have not generally been willing to make the same abatements as landlords have done in respect of their rents. Hence much complaint on the part of tenants ; and in Wales, where the question was aggravated by the fact that a large majority of the small farmers paying the tithes, being Nonconformists, derived no benefit from the religious services maintained out of the proceeds, there arose a very serious agitation against tithes, and in many districts it was impossible to collect them.

In 1891 Parliament again interfered with the freedom of contract between landlords and tenants, and provided that thenceforward the tithe rent-charge should be payable by the owner of the land, in spite of any contract made between him and the occupier of the land ; and that any contract made between the owner and occupier, after the passing of the Act, for the payment of tithe by the occupier, should be void. In the case of contracts made before the passing of the Act, for payment of the tithe by the occupier, it provided that the occupier should pay to the owner any sum which the latter may properly pay on account of the

tithe rent-charge. Tithes are made recoverable in the County Courts. There is also an important provision to meet the cases where the tithe is exceptionally high in proportion to the rent, to the effect that where the County Court is satisfied that the tithe rent-charge on any land, for the year preceding the day on which it is claimed, exceeds two-thirds of the annual value of the land, as assessed to Income Tax, the Court shall remit so much as is equal to the excess.

What the effect of this Act has been, and how the adjustments have been made between landlords\* and tenants, there are no reliable means of ascertaining. It is certain, however, that the tithe has been paid by the landlords since the Act; and with falling rents, due to the depression of agriculture, it is probable that, in large numbers of cases, they have not been able to add the amount to their rents. The value of £100 of tithe rent-charge was, by the last septennial average, reduced to £75 18s. 3d. In 1878 the value was £112 7s. 6d. There has been a reduction, therefore, in the fourteen years, of 32 per cent. The total amount at which the tithes for the whole of England and Wales were commuted, under the Tithe Commutation Act of 1836, was slightly over £4,000,000. The septennial average of prices has, however, reduced this aggregate to £3,043,000, and will certainly reduce it still further. It should be added that the Income Tax returns show that the rent of land in the United Kingdom has been reduced from its highest point, in 1879, of £69,548,000 to £57,694,000 in 1890. In England the reduction has

been from £51,600,000 to £41,378,000 ; in Scotland, from £7,770,000 to £6,374,000 ; in Ireland, from £9,980,000 to £9,941,000 only. These figures, however, make no allowance for the abatements of rent voluntarily conceded in the latter year, and which, probably, have been large.



## CHAPTER III.

### LEGISLATION FOR LABOURERS.

#### 1. THE COMMONS ACT OF 1876.

THE first important measure in recent years affecting the labouring population in rural districts was the Commons Act of 1876,\* amending the Enclosure Act of 1845. It has already been pointed out how important a part in olden times the common lands of England and Wales formed in the economy of life of the rural labourers. In the first place, they afforded the means to the labourers of turning out their cows and donkeys, or runs for their geese and poultry; they provided turf for their fuel, bracken and gorse for litter and for thatching their cottages. Secondly, the commons were an essential condition of the existence of great numbers of small holdings, the tenants of which had largely risen from the class of labourers, and which formed the steps on the ladder by which they could rise from that position to the class of farmers. It is now generally admitted that the vast enclosures of common lands in the last 200 years, though beneficial to the public in affording opportunities for a great increase in the

\* 39 and 40 Vict. c. 56.

production of food, were attended with disadvantages to the rural labourer. The labourers practically lost all the benefits referred to, and received no compensation for them. On enclosure, an allotment of land, or compensation in money, was given only to the owners of land to which common rights attached, and nothing was given to the tenants of cottages, who practically enjoyed these rights. In some cases, allotments of land were made to the parish in lieu of the fuel rights of the labouring people, who were allowed in future to cut turf there. But such allotments were, in general, miserably insufficient, and were in no way a compensation for the loss of the commons.

These enclosures, till the year 1845, took place under private Acts, many thousands in number, in the discussion of which public interests and the interests of rural labourers were entirely disregarded. In 1845 the General Enclosure Act provided machinery for a more systematic local inquiry before the enclosure of a common, and directed that certain portions of the common, so enclosed, should be set apart for the use of the labouring people for recreation grounds and garden allotments where required. The schemes were to be laid before Parliament as provisional orders, to be confirmed in each year by a General Act. In spite of this change, the schemes of enclosure were made with very little regard to the interests of the labouring people of the district, and the allotments for recreation grounds and gardens were miserably meagre. Public attention was at length aroused upon the subject. In 1868 the Royal

Commission on the Employment of Women and Children in Agriculture pointed out in its report "that the agricultural population had lost opportunities and means of bettering their condition which belonged to their class in former times." The Commission gave two reasons for this deterioration—

1. The enclosure of waste lands.
2. The absorption of small farms in large farms.

The report added that the "second cause was undoubtedly dependent to a great extent on the first."

In 1869 the Annual Enclosure Bill proposed to confirm schemes for the enclosure of several commons, embracing an aggregate area of 8,900 acres in different parts of the country. Of this extent, three acres only were to be reserved as recreation grounds, and six acres only as allotment gardens for the labouring people. Objection was taken to these enclosures in the House of Commons, and the Bill was stopped, mainly by the exertions of the late Mr. Fawcett; and no more enclosures were confirmed until after the passing of the Amending Act.

By the Commons Act of 1876 it was distinctly laid down that no common was in future to be enclosed unless it could be clearly shown that its enclosure was for the advantage of the public. An alternative method of dealing with commons was provided in the shape of "regulation" schemes, under which they would still remain open, subject to regulations preserving order and providing for the due exercise of rights. Where enclosures should take place, amended provisions

were made for securing to the labouring people of the district a much larger extent of land for garden allotments and recreation grounds.

In the case of commons within reach of large towns, local authorities were to be consulted before enclosure, and the policy was laid down that enclosure was not to be authorised where the public had been in the habit of largely using and enjoying them.

This Amending Act has greatly checked the enclosure of the remaining commons. In the sixteen years which have elapsed since the Act of 1876, only twenty-four commons have been enclosed, with an area of 26,600 acres ; and in these cases 280 acres have been appropriated for allotments and field gardens, and 500 acres for recreation grounds. During the same period applications for the enclosure of fifty other commons have been rejected as being opposed to the spirit and intention of the Commons Act. In the year 1891 the enclosure of only a single common of 500 acres was confirmed by Parliament. Twenty commons with an area of 30,600 acres have been regulated under the Act.

Although the Commons Act requires amendment for the purpose of facilitating regulation schemes, and for the prohibition of enclosure otherwise than by the authority of Parliament, it must be admitted that it has secured adequate provisions for labouring men in the few cases where enclosure may be thought desirable in the future. It is believed that the extent of land still remaining subject to common rights in England and

Wales, and open and unenclosed, is 2,500,000 acres. Of this, by far the largest proportion consists of mountains in Wales, Cumberland, Yorkshire, and elsewhere. The extent of commons in the purely rural and cultivated parts of the country is not large. It is not probable that any enclosures will take place in the future in these districts, while in the purely mountainous districts the commons will be sufficiently dealt with by regulation schemes. Their maintenance as commons is of importance to the small farmers of the districts and to the labourers. The small holdings there, as in former times in most parts of the country, depend on the existence of the rights of common, and if the commons should be enclosed, the small farms would cease to be profitable, and would be consolidated into large farms, to the disadvantage of the labouring population.

By the Copyhold Act of 1887\* another important step was taken by the Legislature to prevent the enclosure of commons without regard to the interest of the public or of the labouring people. Customs had grown up on many manors, and had been recognised by law, under which lords of manors, with the consent of the Homage, could enclose portions of the wastes of their manors. The Homage might consist of copyholders nominated by the steward of the manor, in the interest of the lord. In this way parts of rural commons were often filched, without even the cognisance of the persons having rights over them. To stop this abuse, the House of Lords inserted a clause in the Copyhold

\* 50 & 51 Vict. c. 73, sec. 7.



Act providing that no such enclosures should thenceforth be lawful unless approved by the Land Commissioners, who are directed, before giving their consent, to have regard to the same considerations as are required of them by the Commons Act of 1876, before consenting to any enclosure scheme. It only remains to apply the principle of this clause to enclosures under the Statute of Merton, or under the Common Law.

## (2) CHARITY LANDS.

The next notable effort made by Parliament to secure allotments for labouring men in rural districts, was in respect of land in the hands of Trustees for Charitable purposes.

By the Allotments Extension Act of 1882 the trustees of any charity land, the income of which is devoted to doles, and to distributions among the poor of fuel, clothing, food, and other articles of necessity or sustenance, are directed to let the most suitable parts of such lands in allotments to cottagers, labourers, and others, subject to various conditions as to the letting of them and other matters. Where the trustees of such charity lands omit, neglect, or refuse to comply with the directions of the Act, it is provided that any four cottagers or labourers may apply to the Charity Commissioners, who are then directed to inquire into the complaint, and, if satisfied that a remedy is required, are authorised to issue orders for remedying such omission or neglect; and in such case these orders may be

enforced in the same manner as other orders, under the Charitable Trusts Acts.

It appears then from the terms of the Act that a mandatory direction is given to all trustees of charity land, within the description of the Act, to take steps for letting the land in allotments to the labouring people. No discretion is left with the trustees as to the individuals to whom they shall let the land, but any cottager or labourer has conferred on him a right to claim an allotment. If the trustees are of opinion that the charity land, either on the ground of distance or otherwise, is unsuitable for allotments, and that no part of it can be usefully set apart for that purpose, they are at liberty to apply to the Charity Commissioners for a certificate relieving them from the obligation to let the land in allotments.

As there are a very large number of cases all over the country, where land has been given or devised for such charitable purposes, and therefore comes within the terms of the Act, the subject is one of considerable importance. The working of the Act has been attended with considerable difficulty—in part, owing to the unwillingness of many of the trustees to carry out duties, very different from those which they undertook in respect of the administration of the charity fund itself; in part, owing to the conflict between the interest of the charities and the objects aimed at by the Act, and from the Act having given no clear direction which is to prevail in the event of any such conflict; and partly, also, from the difficulty the Charity Commissioners have in enforcing

their decisions on unwilling trustees—their only remedy being an application to the Court for the imprisonment of the delinquents. In some cases the trustees have preferred to resign rather than carry out the directions of the Commissioners, and it has been found impossible to fill their places.

A difficulty also has often occurred in carrying the Act into effect under the following circumstances. In many cases the charity lands consist of old pastures; where this is the case, such land, when broken up for allotments, would give for two or three years a very large return to the labourers, and would enable them to pay rents, equal to those received by the charity; but the land would very soon become exhausted, and the labourers would then be unable to pay the same rent, and the charity funds would consequently suffer. The Commissioners in such cases have felt themselves compelled to give their certificate of exemption.

The working of this Act was the subject of inquiry by a Select Committee of the House of Commons in 1884, which made many recommendations for its improvement, but, so far, no legislation has been passed. Among other important suggestions was this, that where such charity land is unsuitable for allotments, the trustees should be empowered to exchange it for other land of equal annual value, more suitable for such purpose. There is a clause in the Commons Act of 1876 pointing in this direction.\* It provides that where land has, under an old Enclosure Act, been vested in trustees,

\* 39 & 40 Vict. c. 56, s. 19.

for the benefit of the parishioners, as a fuel allotment, it shall be unlawful in the future for the trustees to sell the land, but they may let it out in garden allotments to the labourers of the parish, and, where unsuitable for such purpose, they may exchange it for other land which can be utilised for garden allotments—a provision showing the increasing care on the part of the Legislature that such lands as now exist in rural districts, devoted to public purposes, shall not be sold, but shall be used for the benefit of the poor, or exchanged for other land suitable for such purpose.

### (3) THE ALLOTMENTS ACTS.

In 1887 a vigorous attempt was made, for the first time, to secure for labourers generally throughout England and Wales the benefit of allotments. There had been fitful efforts in this direction at many previous times, but legislation had been of a permissive character, and had failed to produce any results. The question, however, assumed importance in the General Election in the autumn of 1885—the first which occurred after the extension of household suffrage in counties, and the first occasion, therefore, on which the agricultural labourers found themselves invested with any political influence. Large numbers of rural constituencies were then won by the Liberal party on an agrarian programme, specially attractive to the labourers, and including the now historic plank of “Three acres and a cow.”

When the new Parliament met, early in the year 1886, an amendment was moved by Mr. Jesse Collings to the Address in answer to the Queen's Speech in the following terms :—" That this House humbly expresses its regret that no measures are announced by Her Majesty for affording facilities to the agricultural labourers and others in the rural districts to obtain allotments and small holdings on equitable terms as regards rent and security of tenure."

The amendment was opposed by the Government, who announced their intention to deal with the question of Allotments in their Local Government Bill, but objected to any compulsory purchase of lands for the purpose. They also promised at an early date to facilitate the creation of small freeholds by the sale of glebe lands, but they questioned the expediency of giving power to local authorities to buy land for such objects. The amendment was carried by a majority of seventy-nine, and the defeat of the Government led to its immediate resignation. In Mr. Gladstone's new Administration, Mr. Chamberlain and Mr. Jesse Collings were placed at the head of the Local Government Board, with the express object of dealing with the subject of Allotments and Small Holdings ; but before they found time to develop any scheme for the purpose, they resigned office, on account of differences with their colleagues on the Home Rule Bill for Ireland, and the new Government was itself defeated on the same policy, before it was able to redeem its promises to the agricultural labourers.



In 1887, the result of a bye-election for the Spalding Division of Lincolnshire, in which the issue turned mainly on the condition of the agricultural labourers, and the necessity of measures for improving their status, and for bringing land within their reach, proved to the Government the urgent necessity, if they were to retain any hold of the rural constituencies, of dealing with the question, and accordingly, though already late in the Session, they proposed and carried a measure for promoting allotments.

By this Act\* the Sanitary Authority of any urban or rural district may be set in motion by any six rate-payers resident therein, and if, after inquiry, they are of opinion that there is a demand for allotments for the labouring population, and that such allotments cannot be obtained at a reasonable rent, and on suitable conditions, by voluntary arrangements between the owners of land and the applicants, they shall purchase, or hire, any suitable land, and shall let it to persons belonging to the labouring population resident in the district. They are directed not to acquire land for allotments save at such a price or rent that, in their opinion, all expenses may reasonably be expected to be recouped out of the rent.

“Reasonable rent” is defined as the rent which a person taking an allotment may reasonably be expected to pay to a landlord, taking one year with another, having regard to the value of similar land in the neighbourhood, to the extent and situation of the allotment, to the expenses of adapting the land to the purpose, and

\* 50 & 51 Vict. c. 48.

to the cost and risk of collecting the rent, and of otherwise managing the allotments.

If the Sanitary Authority are unable, by hiring or purchase by agreement, to acquire suitable land sufficient for allotments at a reasonable rent or price, they may petition the County Authority, who are then empowered to make a provisional order, authorising the Sanitary Authority to take land by compulsion, under the Lands Clauses Consolidation Act. The provisional order is then to be confirmed by Parliament. But the County Authority are forbidden to include in such compulsory purchase any park, garden, pleasure-ground, or other ground required for the amenity or convenience of any dwelling-house. They are to have regard to the extent of land held in the neighbourhood by any owner, and to the convenience of other property belonging to the same owner, and, so far as is practicable, they are to avoid taking an undue or inconvenient quantity of land from any one owner.

The Sanitary Authority, having acquired land, may adapt it for the purpose of labourers' allotments; they may then make regulations for letting them, and for defining the persons eligible to be tenants, the size of allotments, and the conditions under which they are to be cultivated, and the rent to be paid. They are also to appoint allotment managers. The allotments are not to be more than one acre in extent, and are not to be sub-let. The rents charged are to be such as to insure the Local Authority from loss, and are to be reasonable, having regard to the agricultural value of the land; and

not more than a quarter's rent is to be required to be paid in advance. Power is also given to the Sanitary Authority to acquire land for letting as a common pasture, with the approval of the County Authority.

The above appear to be the principal points worthy of notice in this important measure. It is to be observed that compulsory powers of purchase are vested in the County Council on application of the Sanitary Authority, which in the case of rural districts is the Board of Guardians, where the guardians are elected by the property vote, and where the magistrates of the district are *ex officio* members. In introducing the measure, Mr. Ritchie, the President of the Local Government Board, emphasised the opinion of the Government that voluntary agreements between landowners and labourers were by far the best methods by which allotments could be provided, and had the best chance of success. The object of the measure, he said, was not to supplant, but to supplement voluntary agreements, and before putting it in force the local authorities would satisfy themselves that allotments could not be obtained at a reasonable rent by voluntary agreements between owners and labourers.

A short experience of the Act proved that in many cases it failed from want of a superior authority, to whom an appeal could be made against the refusal or neglect of the Boards of Guardians to put it in motion, and to provide allotments, where required by the people of their districts. In 1890 an amending Act \*

\* 53 and 54 Vict. c. 65.

was passed. It was admitted by the Government that cases had occurred, in which the Sanitary Authorities had not met the demands made on them by labourers in particular districts, and that it was necessary to provide a remedy. County Councils had been instituted in the interval. The new Act therefore provided that where six ratepayers should apply to the County Council of their district, representing that the Sanitary Authority had failed to provide allotments under the Act, the Council might appoint a committee for the purpose of inquiry, and if satisfied of the justice of the complaint, might exercise all the powers conferred on the Sanitary Authority by the Act of 1887, and might themselves acquire land for the purpose of allotments. County Councils are further directed to appoint standing committees to deal with the question of allotments, and generally to exercise supervision in this respect. In the discussions in the House of Commons on this measure, there were numerous complaints, from members on both sides of the House, of the action of Boards of Guardians, of the vexatious delays which had occurred in proceedings under the Act of 1887, and of the great cost of land purchased under it. It was generally admitted that the constitution of Boards of Guardians was not satisfactory for the purposes of carrying out this policy, that little was to be expected from them of energy and zeal for the objects of the Act, and that until District Boards or Parochial Councils were constituted, there could be little hope of a full development of the policy of the Act.

A recent return laid before Parliament shows that 56



Rural Sanitary Authorities, only, have acquired land for allotments under the Act of 1887, in 12 parishes by the purchase of land by agreement, and in 82 parishes by the hire of land by agreement; the total extent of land so acquired was 426 acres, and the number of allotments thus let to labourers has been 2,733. 518 Sanitary Authorities have not taken any action under the Act, alleging, in the majority of cases, that allotments are already provided voluntarily by landowners, under private arrangements, and that no applications or representations, under the Act, have been made to them. Under the more recent Act of 1890, 4 County Councils have acquired land for allotments, in six cases by hire under agreement, in one by purchase under agreement, and in a single case only by compulsory purchase: the total extent of land thus acquired being 81 acres, and the total number of allotments 158.

It is claimed, however, on behalf of the two Acts, that although their direct effect has been small, and very few transactions of purchase or hire of land for allotments have taken place, yet the indirect effect, by stimulating voluntary action of landlords in the letting of land for this purpose to the labourers, has been very considerable. In a Parliamentary return presented in 1890, it is shown that the number of allotments detached from the cottages, occupied by labouring men, have increased from 246,000 in 1873 to 357,000 in 1886, and to 453,000 in 1890.

If the enumeration was conducted with equal care in the earlier years, these figures show that there has been



a considerable movement in this direction, commencing some years before the Act of 1887, and continuing with accelerated effect in the last three years. It is probable that this has been due even more to the fact, that the attention of landowners has been devoted to the importance of providing allotments freely for the labourers on their estates, and to the fact that labourers now have votes in the Parliamentary elections, than to the fear that the Act will be put in operation compulsorily by local authorities.

Those who have strongly advocated the extension of allotments, in the interest of labourers, have contended that one of the objects chiefly to be aimed at, is the conferring upon them a sense of independence, the feeling of common ownership in the land, and the right of taking part in the management and letting of it. In this view the extension of allotments by the voluntary action of landowners is insufficient to meet the case. It is even more important that the allotments should be in the ownership of local authorities, whether parochial councils or district boards, and should be let in such a manner and upon such a tenure as will commend themselves to managers, in the election of whom the labourers have a voice. It is evident that we are still a very long way from any such development of the system. It is to be observed that the vast majority of the allotments consist of no more than one-eighth of an acre. There has been no single case as yet of the purchase of land by a local authority for the common pasture of the cattle of the labouring people of a district.

## (4) THE SALE OF GLEBES.

The next step with a view to the improvement of the condition of the labouring people in rural districts, by bringing within their reach the ownership and occupation of small holdings, was that taken in the Glebe Lands Act, 1888.\* The idea of utilising glebes, for multiplying small ownerships of land, appears to have originated with Lord Salisbury, who, in 1886, announced this as one of the objects of the policy of his Government. As there are glebe lands of varying sizes belonging to nearly all the incumbents of rural parishes, and consisting generally of good land in the neighbourhood of the villages, for the most part in hand, and not let to tenants, and amounting in the aggregate, throughout England and Wales, to more than 600,000 acres—and as many of the clergy have found it difficult to manage these lands, especially in the late period of agricultural depression—it was thought that their sale might at the same time relieve the clergy of an encumbrance, and afford the opportunity of multiplying small ownerships.

The Act of 1888 therefore authorised the sale of glebe lands, with the consent of the Bishop of the diocese and of the Board of Agriculture. It provided, however, that for the purpose of facilitating the acquisition of land by cottagers, labourers, and others, it should be the duty of the Land Commissioners, in giving their approval of a sale under the Act, either to require as a condition thereof that the land should be offered for sale either in

\* 51 and 52 Vict. c. 20.

small parcels to labourers, or to the Sanitary Authority of the district, for the purpose of the Allotments Act, 1887, or to satisfy themselves that such offer is not practicable, without diminishing the price, which may be obtained for the glebe land on a sale.

It was pointed out by the writer, in the discussion on this measure in the House of Commons, that it would almost certainly fail in its objects, so far as the sales of plots to labourers were concerned ; in part, because there was no sufficient provision in the Act for publicity, and for informing the labouring people of the benefits contemplated for them by it ; and in part, because there was no power to enable the purchasers to leave a portion of the purchase money on mortgage, and because as a rule it would be impossible for persons in the position of labourers, to pay the whole of the purchase money. It was predicted that the result of the Act would be that the glebes would, as a rule, be bought up by the great landowners of their districts, and that the monopoly of land in such parishes would be increased, rather than diminished.

The results of the Act, so far, have completely verified these predictions. Up to the end of 1891 seventy-five glebes were sold. Of these, sixty-six were sold in single lots, and the purchasers were, in the great proportion of cases, the owners of the adjoining lands. In only four cases were the glebes sold in more than three lots. It does not appear that in any single case has a labourer become a purchaser of a plot of land. In the Report of the Board of Agriculture, it is alleged that every care

has been taken that due notice of intended sales was given to the parishioners, and that in all cases, where it did not appear that the price was likely to be diminished, by offering the land, or some part of it, for sale in small parcels, such offer was made. On the other hand, complaints have been made of the want of publicity of such sales, and of the want of facilities to labouring people to become purchasers. It is now certain that the Act has totally failed in one of the two main objects it had in view. The sale of glebes has resulted in increasing the monopoly of land in rural parishes, rather than in multiplying small ownerships.

(5) THE SMALL AGRICULTURAL HOLDINGS ACT.

The last, and by far the most important and ambitious effort in the same direction, of creating a class of small owners of land, and of enabling the agricultural labourers to rise from their position, was that embodied in the Small Agricultural Holdings Act of 1892.\* It is proposed by this measure, with the aid of loans from the State at low rates of interest, repayable by instalments, spread over terms of years, on the principle of the Land Purchase Acts of Ireland, and through the medium of Local Authorities, by the purchase, breaking up, and re-sale of land, to re-create classes of small owners and occupiers of land. The measure was based on the recommendations of the Committee on Small Holdings, presided over by Mr. Chamberlain, and on the model of a Bill

\* 55 and 56 Vict. c. 31.

introduced in three or four successive years by Mr. Collings, Mr. R. T. Reid, Q.C., and others.

On presenting the Bill, Mr. Chaplin, then President of the Board of Agriculture, made, on behalf of the Government, an important declaration of policy—one which will remain on record even if his measure should fail in its objects.

“One of the chief objects,” he said, “the Government has in view is a wider distribution of land among the people of this country; to bring back to the soil, if it be possible, by legislation—I had almost said to re-create—a class of the community, which has been gradually dwindling for many years, and which is now rapidly becoming extinct, but which, at the same time, we must remember existed and flourished in former years in far greater numbers than at present. I am speaking of the class, which used to be described as yeomen, or, in other words, the owners of small properties in land. No one, who is well acquainted with the agricultural districts, can fail to be aware of the constant immigration of the rural population from the country to the towns, which has become so prominent and so unwelcome a feature of the rural situation during the last few years, and which I am afraid is still progressing, and perhaps at an ever-accelerated pace to-day.”\*

After discussing the causes which had led to this, among which he enumerated the spread of education, resulting in the growing distaste for manual labour on the soil, the higher rate of wages which can be obtained in towns, the greater attractions of town life, and lastly, the greatly increasing demand for active and intelligent labour on railways and in the police force, he said that the Government thought that something

\* Parliamentary Debates, 1892. Vol. 1, p. 911.



could be done to arrest the evil by a measure affording to the rural population greater facilities than they now enjoy, for working on the land in their own interest, and for the profit of themselves. He alleged that the greatest danger for farmers, at the present time, was not foreign competition, or low prices for their produce, but the difficulty of finding sufficient labour for the effective cultivation of the land. It did not follow, he said, that the small owners to be created by the Bill would be employed the whole of their time on their land; there would be times and seasons, when part of their labour would be available for service on the larger farms; and the mere possibility of being able to obtain for themselves, by their own industry, small holdings, would be no small inducement to the younger labourers to remain in the country in greater numbers. At all events, he said, the Government desired that the experiment should be tried.

Under the measure, as it finally passed into law, County Councils are invested with the duty of carrying it into effect. On the petition of any one or more persons alleging that there is a demand for small holdings in the county, the County Council are directed to cause inquiry to be made, and, if satisfied that there is such a demand for small holdings as to justify them in putting the Act in force, are empowered to purchase land by agreement suitable for the purpose; they may then, before sale or letting, adapt the land for small holdings by dividing and fencing it, by making roads, draining, and doing any other works on it, which may be more

economically and efficiently executed for the land, as a whole. They may also erect houses and farm buildings suitable for such holdings. Having then apportioned the total cost of the acquisition of the land, and its adaptation, among the several holdings, in such manner as may seem just, they are to offer the holdings for sale, at a price, which is to include all costs of purchase and registration of title.

The purchaser is to pay in ready money one-fifth at least of the purchase money. Of the residue, one-fourth may be secured, if the County Council think fit, by a perpetual rent-charge on the small holding, to be redeemable, however, as other rent-charges are by law. The residue of the purchase money is to be secured by a charge in favour of the County Council, repayable by half-yearly instalments of capital and interest, spread over a term, not exceeding 50 years, with power to pay off the whole at any time. Such holdings are, for 20 years from the date of the sale, and thereafter, so long as the purchase money is unpaid, placed under certain legal conditions or disabilities. They may not be divided, assigned, let, or sub-let without the consent of the County Council; they must be cultivated by the owner or occupier, and must not be used for any other purpose than agriculture; there must not be more than one house erected on any one of them; the houses to be constructed are to comply with the requirements of the Council; and on holdings where the Council are of opinion that no dwelling-house is wanted for the holding, no such building can be erected, without their consent. If any of these



conditions are broken, the Council may cause the holding to be sold. On the death of an owner, the holding must not be divided, and the County Council have power to direct the sale of it, to avoid sub-division. Where the Council are of opinion that any persons desirous of themselves cultivating small holdings, are unable to buy on the terms fixed by the Act, they may let holdings not exceeding 15 acres in extent, or £15 of annual value. They may also hire land for such purpose in lieu of purchasing it, in cases where, from its proximity to a town, or suitability for building purposes, or some other special reason, the land has a prospective value, which in the opinion of the Council is too high to make its purchase for agricultural purposes desirable. The Council may, under special circumstances, to be recorded in a minute, consent to the sale of a small holding, free from all or any of the conditions imposed by the Act. They are further directed to sell any superfluous land after providing for small holdings. The Registration of Titles of all land to be sold or let under the Act is also provided for.

The Council are empowered, where they have bought property for the purposes of this Act, to delegate to a committee, on which the parish, in which the holdings are situate, is to be represented, the powers of adapting the land, and the sale, letting, and management of it. The Public Works Loan Commissioners are authorised to lend money to the County Council for the purposes of the Act at the rate of not less than £3 2s. 6d. per cent. The Council are further limited in their

transactions under the Act to such a principal sum as is represented, in interest, by a rate of one penny in the pound, on the rateable value of the property in the county, exclusive of that of county boroughs within it. It is estimated that this may involve loans to the amount of £10,000,000.

On the motion of a Conservative member, a clause was added in the House of Commons providing that the small holdings created by the measure should cease to be real property in the legal sense, and should, for the purpose of inheritance and other matters, be considered as personalty, and, on the death of the owner without a will, should be divisible equally among the children. This clause, however, was rejected by the House of Lords, and as the measure now stands, the small holdings will be subject to the rule of primogeniture. The Act applies equally to Scotland as to England and Wales.

It is not necessary to enter further into details of this measure. In the course of its passing through the House of Commons it was greatly strengthened in those of its clauses which contemplated the letting of small holdings by the County Councils, as distinguished from their sale, in spite of the general declaration of the Government that the main object they had in view was the multiplication of small ownerships of land. It appeared to be generally considered by those who represented specially the interests of the agricultural labourers, that it is in the direction of letting, rather than of sale, any benefit to them can be looked for.



The measure, indeed, as it has been moulded by Parliament, is a curious compound of various contending influences and political ideas. It aims, in the main, at individualism, by the multiplication of small owner-ships, but combined with this there is a distinct leaning towards the nationalisation of land, by putting them under conditions and disabilities for twenty years, and by subjecting them to perpetual rent-charges equal to one-fifth of the interest on the purchase money. In another part it contains the germs of a policy of municipalisation of land, by providing for the letting of small holdings by the County Councils to the extent of fifteen acres; and, as the Councils are to be empowered to erect houses and farm buildings, they will practically be in the position of landlords towards a tenantry of small occupiers of land. Then, again, the provision, already described, for enabling advances of money to be made to tenants to purchase their small holdings, aims at promoting individual property of land.

Too short a time has elapsed, since the passing of the measure, for any operations under it. The President of the Agricultural Department has issued a circular to County Councils explaining the machinery and objects of the measure, and concluding with the "earnest hope that experience of the practical working of the Act may show that it will be successful in accomplishing the object, with which it has been sanctioned by Parliament, and that by its means the acquisition of land in small holdings by those, who are able to cultivate them with advantage, may be facilitated." Whether this will be



realised may be doubted, but in any case there will remain on record the recognition by a Conservative Government, in the strongest possible form, of the evils of the present condition of land tenure in England, especially in its bearing upon the agricultural labourer, and of the necessity for a remedy ; and if the Act should fail, within a reasonable period, to effect a change, the arguments in favour of other and more stringent measures will be greatly strengthened.

It may be interesting here to recall the opinion on this measure of the head of the late Government—Lord Salisbury. Speaking at Exeter on the 3rd of February, 1892, before the introduction of the Bill, he referred at length to the policy of artificially creating small holdings.

“ I am very anxious,” he said, “ to multiply small holdings and small properties in the country. . . . But understand what the advantage will be. I do not think it will operate—at least, to any great extent—in relieving the particular sufferings of the poorer classes. On the contrary, it presupposes the possession of a certain amount of money for a man to undertake a small holding. The advantage which I believe it will confer is of a totally different kind, it being a political advantage. I do not think that small holdings are the most economical way of cultivating the land. But there are things more important than economy. I believe that a small proprietary constitutes the strongest bulwark against revolutionary change, and affords the soundest support for the Conservative feeling and institutions of the country. It is no mere theory ; it has been tried under the most exacting circumstances. In France—which has been racked and racked again by the paroxysms of revolution—the administrative machine has been held together, law has been supported, and the whole society has been able, in spite of

revolutions, to go on, because it was founded on the broad basis of what Lord Beaconsfield well called a territorial democracy. How far it will be possible for us to carry out its principle in this country is a very serious question. There is no doubt there has been a constant tendency of the holders of small properties, where they exist, to sell them, and to invest the price in more lucrative concerns; and until we try, I do not know whether any action of the State will be able to create a peasant proprietary on a large scale. But it seems to me very desirable that the experiment should be tried; that it should be seen that, so far as the Government and so far as the other classes of society are concerned, we earnestly desire that the yeomen and labourers shall remain upon the land, and shall contribute their strength to the support of the institutions of the country. There is no difficulty about the experiment; there is plenty of land to be had. I myself am strongly against compulsion—at all events, at this stage—because I do not believe it to be needed, and because I am sure that compulsion will create ill-will, ill-will will create litigation, and litigation will create rates, which is the evil to which all other rural evils tend to converge. But if we should succeed in creating a much larger number of proprietors than exist in the country, you must not imagine it will make no difference in the position of the landowners. It is rather the fashion to look upon landowners as a semi-criminal class, upon which it is quite reasonable to heap any burthen you like in the shape of rates. But when we have the alliance of those sturdy yeomen whom we hope to create, we may expect to be treated in a very different manner. We may be quite certain this question of rates will be thoroughly overhauled. . . . I have a strong feeling that if I had the number of yeomen whom I would like to create in this country, we should very soon see the system of rates put upon an equitable footing.”

## (6) LABOURERS' COTTAGES.

The Legislature, of late years, has passed several measures with the object of improving and providing cottages and gardens for labourers in rural districts. Under the Sanitary Acts the rural sanitary authorities have ample powers to compel the owners of cottages to put them in proper order and repair, and to secure that there is a supply of water. On the application of the sanitary authority, the County Council of the district may direct a local inquiry as to the accommodation in the district for the housing of the working classes; and if, after such inquiry, it is certified that there is need, and that there is no probability that accommodation will be otherwise provided, and that, having regard to the liability that will be incurred by the rates, it is prudent, under all the circumstances, for the authority to undertake the provision of accommodation, the County Council may authorise the local authority to do so.\* The authority may then purchase land by agreement for the purpose, and erect cottages on it in accordance with the certificate, and may borrow money for the purpose through the Local Government Board. It is provided also that the term "cottage" may include a garden of not more than half an acre, the value of which shall not exceed £3. It is further provided that the rural sanitary authority, if unable to purchase land by agreement for the purpose, may, through the medium of the

\* 53 and 54 Vict., c. 70, Part III.

Local Government Board, obtain a scheme for the purchase of land by compulsion, to be approved by Parliament in the ordinary way. It appears that only one case has occurred in which a rural sanitary authority have obtained power to buy land by agreement for the erection of cottages—that of Thingoe in Suffolk, where they have obtained power to borrow £1,900 for the erection of twelve cottages. No case has occurred in which the compulsory powers have been put in force.

#### SUMMARY OF LEGISLATION.

It will be seen from this brief survey of agrarian legislation, how fully Parliament has recognised the defects of the present system of land tenure in England and Wales and of the distribution of property in land, and how manifold and varied have been the efforts to mitigate them. There is scarcely any point where an attempt has not been made to deal with the subject. Efforts have been made to promote the expenditure of capital on entailed estates, to free land from the trammels of entail so as to make it easily saleable, to simplify titles, and to cheapen and facilitate the transfer of land. In two notable instances Parliament has interfered with the freedom of contracts between landlords and tenants for the protection of the property of the latter. It has adopted the same method in the case of Tithes. It has accepted the principle of the compulsory purchase of land by local authorities for two purposes—for allotments, and for the erection of labourers' cottages; it has recognised

the principle of the sale of quasi-public lands for the purpose of promoting the multiplication of small owner-ships. Lastly, by the more recent Act of last year it has made a further great step towards increasing the number of small ownerships and small tenancies, by giving power to local authorities to purchase land, and to break it up into small lots for reselling or letting. It has admitted the principle of the loan of public money for this purpose, and also for the conversion of tenancies into ownerships on the method of the Irish Land Purchase Acts. It has been shown that the success attending these efforts has not been considerable. The land system practically remains unaltered, though something has been done, here and there, to mitigate its defects. So far as the labourers are concerned, the indirect effects of the Allotments Acts, in inducing landlords voluntarily to let allotments to their labourers, in order to avoid the purchase of land for that purpose by local authorities, have been important: but the direct object aimed at—of vesting the ownership and management of allotments in the hands of local authorities—has not been realised.

It will be endeavoured later to discuss the probable outcome of the Small Holdings Act. Meanwhile, it is proposed to describe the land legislation for Ireland and Scotland, which may throw much light upon the general question of agrarian reform.



## CHAPTER IV.

### LANDOWNERSHIP IN IRELAND.

IF the efforts made by the Legislature for the reform of the agrarian system of England and Wales, with the object of bringing capital to the land, of giving greater security to tenants, and of improving the condition of labourers, have been numerous, those for Ireland have been far more so, and far more drastic in their methods and results. It may indeed, with truth, be said, that Ireland has been passing through an agrarian revolution, exceeding in scope and effects, that which any country in Europe has experienced in modern times, save France at the time of its great revolution, and Russia when serfdom was abolished.

Till within a few years ago, the law relating to landed property in Ireland, whether as regards its inheritance, and the power of entailing and settling it, or as regards the relations of landlords and tenants, was almost identical with that of England. The actual economic condition of the two countries, however, in respect both of landlords and of tenants, differed in almost every essential particular. England, as has been shown, is a country, in the main, of large ownerships of land. The landlords there are generally resident; they exercise all

the functions of owners ; their relations to their tenants are of a close and friendly character ; they always supply the capital required for permanent improvements, for drainage, building, planting, and for labourers' cottages ; their tenants supply the capital necessary for the ordinary cultivation of the farm, the plant, the stock, and manures. Ireland, on the contrary, is a country of relatively even larger landownerships than England, but of very small holdings and tenancies. The landlords, to a large extent, are non-resident. As a rule, in three out of the four provinces, there has been little or no sympathy between them and their tenants. They are generally of a different race and different religion. Whether resident or non-resident, whether English or Irish by birth, whether sympathetic or not with their tenants, the Irish landlords have in the past, with rare exceptions, expended nothing on improvements of the land ; the tenants themselves have effected all the substantial improvements, have done everything which distinguishes the cultivated land from its original condition of waste, have erected the houses and farm buildings, have reclaimed the land, drained and fenced it. In England it has been shown that large farms prevail, and that small holdings on which the cultivator makes his living by cultivating with his own hands, and without the aid of hired labour, are almost extinct. In Ireland, on the contrary, the great bulk of the tenantry are of this class. Of 655,000 holdings, 584,000 are rated at £30 and under, and 62,000 between £30 and £100. Till the efforts in recent years of Parliament to convert tenants into owners, this class of

occupiers of land consisted almost wholly of tenants ; the classes of yeomen and peasant proprietors scarcely existed in Ireland.

If English law had been introduced into Ireland in feudal times, it is probable that the small occupiers of land there would have been treated, as were the villein tenants in early times in England, and would have had conceded to them fixity and perpetuity of tenure, as copyhold tenants of the lords of manors, subject to customary payments and fines on inheritance and transfer. English law, however, was not enforced in Ireland till a far later date, when the feudal system in England had already been almost extinguished and forgotten, and when the rights of individual property in land had obtained a fuller recognition. On the confiscation of the property of the Irish chiefs, the English settlers and adventurers assumed the status of English landowners. The ancient Irish customs and laws, which gave a certain protection to the cultivators, were set aside ; the English land laws, imported into Ireland, confirmed these views of the new comers, pushed to their extreme the rights of landlords, and conceded nothing to the occupiers, in respect of their customary rights under the old Irish customs.\* The land system thus introduced was a method of government, a badge of conquest, and a means of holding in subjection the common people. The tendency of the English law of primogeniture and entail was aggravated by the penal laws, directed against

\* The effect of the change upon the Irish peasantry has been graphically described by Mr. Froude in his "English in Ireland," vol. ii., p. 20.

the ownership of land by Catholics, and it resulted that, relatively even to England, there were far fewer owners of land, and that for ten owners of land of under 50 acres in England, there was only one such owner in Ireland.

The land was cultivated exclusively by tenants, consisting, for the most part, of the subjected people. In the greater part of Ulster, and in some isolated districts in the rest of Ireland, the native Catholic cultivators were dispossessed of their holdings in the better lands, and were driven to the mountains and to the waste and inferior lands, and their farms were taken by Protestants imported from Scotland or by the disbanded soldiers of Cromwell's army. The fugitive Catholics reclaimed the wild districts to which they were driven, and were allowed to sub-divide their holdings as they pleased. Later, the same process was repeated, in many parts of the south and west of Ireland, of dispossessing the tenants of the best pasture-lands, in order to consolidate the holdings into great grazing farms; and those of the evicted tenants, who did not emigrate, were compelled to settle upon the inferior land of the mountains and moors. It was by these arbitrary processes that what are called the congested districts in Ireland came into existence.

By the imported English law, the tenants, whether in Ulster or the rest of Ireland, had no interest in their holdings, otherwise than by contract; they were for the most part yearly tenants, subject to a six months' notice to quit, and were not entitled, on the determination their tenancies, to any compensation for the improvements they had effected, for the houses and farm

buildings they had erected, or for the reclamation and drainage of their farms. Whatever the law, however, custom had to a certain extent remedied the injustice. In Ulster, where there was a closer connection of race and religion, and a greater sympathy between landlords and tenants than elsewhere, the custom had grown up, under which the interest of tenants in their holdings was, to a large extent, recognised by the landlords.

The tenants, under the Custom of Ulster, were considered as entitled to continue in possession of their holdings, so long as they paid their rent, and to sell and bequeath their interests in their holdings. It was also generally recognised that the rent ought not to be increased, so as to encroach on the value of the tenant-right. Although not recognised by law, this tenant-right was admitted and acted upon more or less by the general body of landlords, and any serious attempt to evade it, on the part of a landlord, was certain to give rise, even in Ulster, to grave popular discontent in the district, and often to agrarian crimes of a terrible character. To a less degree, the interests of tenants in their holdings in other parts of Ireland were recognised and admitted by the better landlords. Generally, it may be said that the harsh exercise of rights by landlords, permissible by law, was restrained, if not by the desire, on their part, to act fairly by those below them, at least by the fear of violence and revenge. Practically, however, it was admitted, almost universally, that once in possession, a tenant had the right to



continue, so long as he paid his rent. The disputes generally occurred on the subject of rent. It cannot now be denied that the rents generally were such as amounted to an appropriation by the landlords of the tenants' improvements. When bad years occurred, there was great inducement to landlords to take advantage of the tenants' inability to pay rent, for the purpose of evicting them, and laying down their land in large farms—a process which involved expropriation of the tenants' interests.

Under this condition of things, there was in every part of Ireland, except Ulster, an absence of any security to tenants that they could enjoy the benefit of their improvements; there was, on the contrary, the fear that if they effected improvements their rents would be raised by their landlords, and consequently there were inducements to the tenants to appear to be even poorer than they really were. It would be difficult to conceive a system more opposed to the prosperity and progress of an agricultural community.

In many parts of Ireland, also, the small farms had the valuable privilege attached to them of turning out cattle during the summer months, on the neighbouring mountains, moors, and waste lands. It has already been pointed out, in the case of England, that such a privilege is a most important addition to, if not an indispensable condition of, the existence of small holdings. The manorial system, however, had never been introduced into Ireland. There were no commons in the English legal sense of the term. The mountains, moors, and waste lands were by law the absolute property of

landowners in Ireland. The tenants turned out their cattle upon them by the leave and licence only of their landlords, the owners of the waste lands. When the landlords found that they could turn the mountains and waste lands to their better advantage, for sheep or cattle farms, they not unfrequently did so, without regard to their tenants' interests, and deprived them of this privilege. There was no law to protect the tenants from a change in their condition of a most serious character.

Where this deprivation of the privilege of turning out cattle on the waste lands took place, it was the certain cause of agrarian trouble. There can be little doubt that the fears engendered by agrarian crime alone prevented large districts being cleared of their population for the consolidation of farms, for the creation of grazing farms, and for the turning of the waste lands into sheep and cattle runs. The secret societies, which, under various names, were so common in Ireland, were due to the grave insecurity of the tenant class, and to their efforts to protect themselves and their property, against the harsh exercise of rights by landlords, under laws alien to the people, and entirely opposed to the prosperity of the country.

That some part of this process of consolidation of holdings was an economic advantage, if not a necessity to the country, cannot be doubted, for in many districts the sub-division of holdings had become so great that the population was excessive, and was beyond what could be sustained by the land. But the consolidation

was carried out often with a reckless disregard of the interests of the tenants; the process was generally first adopted in the case of the better land of a district, where it was the least needed. Multitudes of small tenants were forced into emigration, and carried with them, across the Atlantic, the bitter memories of wrong. Others were compelled to find homes and a miserable existence upon the inferior lands in their district, already overcrowded. Hence it is, that in many parts of the west of Ireland, the traveller finds large tracts of most fertile land, with scarcely any inhabitants upon it, and devoted to grazing purposes, while hard by, on the very poorest land, almost unfit for cultivation, there are large communities of persons with holdings insufficient to support them, and eking out their existence by a periodic exodus in search of work, during the harvest time, in England and Scotland, or supplementing their work on their small plots of potatoes by fishing, or by occasional work as labourers on the large farms in the district.

#### THE ENCUMBERED ESTATES ACT.

The agrarian condition of Ireland had been aggravated by a measure, conceived by Parliament, with the hope of inducing capitalists to purchase land in that country, and to expend their money in improvements, after the fashion of English landlords. After the famine of 1846-7 a very large number of landowners were in financial difficulties of a most serious character. Their estates were heavily burthened with mortgages and

family charges. With greatly reduced rents and with increasing poor-rates, there was little or no margin for the support of the owners. In 1849 a special commission was appointed, under Parliamentary powers, for the sale of these encumbered estates, on the petition of encumbrancers and creditors, and with full power to cut all the legal knots in which they were involved, to give a Parliamentary title to the new purchasers, and to distribute the proceeds among those entitled. It was hoped and intended to attract purchasers with capital, who would improve their estates in a manner very different from the Irish system.

Under this measure a very large number of properties, valued at over £50,000,000, were sold. They belonged, for the most part, to the older families of the gentry of Ireland, who had managed their estates according to the traditions of the country, and with regard to the interests of their tenants, and who had not considered that they were justified in imposing rack-rents. These lands were now bought by persons of a very different class, who had no knowledge of the traditions of the estates, or of the former relations of the tenants to their landlords. The new purchasers were no more improving landlords than those who were sold out. They bought for investment only, and with the intention of making as much as they could out of the land.

The scheme of introducing the English land system entirely failed. But this new class of landlords felt no compunction in screwing up their rents, to a point at which they completely appropriated the tenants' interest,

or in clearing their properties of tenants, with a view to the consolidation of holdings, or the making of great grazing farms. Their action caused the gravest agrarian difficulties in Ireland, and was a potent cause of subsequent reforms. With our present knowledge of the land question of Ireland, it appears strange indeed that no effort was made, when passing this measure, to secure the interests of the tenants, who were being handed over to new masters.

#### CLASSES OF CULTIVATORS.

To understand the agrarian condition of Ireland, and to appreciate the effect of the land reforms, which have of late years been carried out, it is necessary to bear in mind the different classes of which its agricultural community consists.

There are, first, the great grazing farms, including some of the very best and most fertile pastures to be found in any part of the United Kingdom, on which cattle are fed and fattened by a special class of persons engaged in the business, for the most part non-resident. They have been properly exempted from all recent legislation, in the interest of tenants, giving fixity of tenure and judicial rents. It has been estimated that the annual value of these grazing farms is about £2,000,000 a year.

Next in order come the large farms, of over 100 acres each, cultivated by tenant farmers, employing hired labour in the work on their farms. The number



and extent of these are greater than is generally recognised. The agricultural returns show that there are 32,000 farms, averaging about 200 acres each, with an aggregate of 6,600,000 acres, and a rental of £4,000,000.

Thirdly, there are the small farms, rented at from £10 to £100. They are 208,000 in number, with a total area of 6,400,000 acres. The tenants work their farms themselves, with the aid of their families and one or two labourers. They constitute the main body of the agricultural class in Ireland; and now that they have fixity of tenure and judicial rents, they may be considered a class of peasant owners, living wholly by the land.

Lastly, there are the smaller tenants, holding plots of land, rated at under £10. They number 365,000. Many of these are cottier tenants, unable to make a living wholly out of their land, but supplementing it by working as labourers on adjoining farms, or by migrating to England and Scotland for harvest work, or for work in the brick-fields, or by fishing during a part of the year, when the herrings and mackerel are off the coast. They live mainly on potatoes and milk, resorting to meal during a part of the year, or when the potatoes yield a bad crop. They earn enough as labourers, or in other ways than on their holdings, to pay their rents, and to provide themselves with meal and clothing. When the potato fails, they are thrown on their beam-ends, and are unable to pay their rents, and at the same time to provide their families with food in substitution for potatoes. They are the chief cause for anxiety in the

years of periodic failure of the potato crop. They constitute the main portion of the population in what are known as the congested districts. They are passionately attached to their homes. They cannot be called unthrifty, compared with the lowest class of labourers in the large towns in England, for they save up their wages during the three or four months, when they have migrated for work, and carry back funds sufficient to pay their rents, and to maintain their families during a part of the year. They are able to compare their existence with that of the labourers in England, and it is evident that they prefer their own conditions of life; for there is nothing to prevent them transferring their families to England, and obtaining permanent work as labourers in the manufacturing and mining districts.

It was of this class that the Royal Commission on Agriculture, presided over by the Duke of Richmond in 1881, reported as follows:—"With respect to the very small holders in the western districts of Ireland, we are satisfied that, with the slightest failure of their crops, they would be unable to exist upon the produce of their farms, even if they paid no rent. Many of them plant their potatoes, cut their turf, go to Great Britain to earn money, return home to dig their roots or to stack their fuel, and pass the winter, often without occupation, in most miserable hovels. Employment at a distance, always precarious, has largely failed them during the late calamitous seasons."

Besides these various classes of occupiers of land, there are the agricultural labourers pure and simple—a

class working for wages on the land of others, living generally in the most miserable hovels, too often without any gardens or potato lands attached, hiring generally small patches of land, for the growth of potatoes, from adjoining farmers at exorbitant rents, under what is called the con-acre system. Of the agricultural classes in Ireland, there can be little doubt that the lot of these labourers is the hardest and poorest. Bad as it is, it has somewhat improved of late years, as the rate of wages has risen. The census of 1881 gave the number of this class at 143,800. In 1891 it was reduced to 118,980, a decrease of 17 per cent. ; it is probable that this number includes a great many who should rather be classed as cottier tenants, than as simple labourers.

It is to these various classes of the agricultural community of Ireland that the measures of agrarian reform, of the last twenty years, have been applied—measures aiming at fixing the peasantry on the soil, creating out of them a class of yeomen or peasant owners, or converting them into joint owners of the land with their landlords, and giving greater security, and therefore greater inducement, for the outlay of capital on the land.

## CHAPTER V.

### RECENT AGRARIAN REFORMS IN IRELAND.

#### THE LAND ACT OF 1870.

THERE were two possible lines on which remedial measures for the occupiers of land in Ireland might proceed, with the object of giving them greater security in their holdings—the one, that of altering the law between landlord and tenant, and of giving equally to all tenants protection for their improvements, past and future, and greater security against eviction ; the other, that of converting tenants into owners by the aid of State loans. It was obvious that the second of these processes, unless of a compulsory character, with an independent determination of the value of the landlord's interest, would be slow and uncertain in its operation, dependent as it would be upon the willingness of landlords to sell, on terms which the tenants would accept, and upon the readiness of Parliament to make advances by way of loans for the purpose. The first was an immediate process, dependent only on a few words of an Act of Parliament, giving instant relief to the whole body of tenants. The second aimed at the extension of individual ownership, by the conversion of tenants



into peasant proprietors; the former was an advance towards dual ownership between landlords and tenants. Parliament was invited to proceed in both directions at the same time. The first general attempt to deal with the subject was that under the Irish Land Act of 1870. This Act legalised the Customs of Ulster and any like customs in other parts of Ireland, and gave to tenants, who held under them, the protection of the law. It then proceeded to enact for the rest of Ireland a somewhat analogous system. It reversed the presumption of law that improvements belong to the owner of the land, and secured both past and future improvements to the tenants, and enabled them to claim compensation for them on the determination of their tenancies. It laid down a further scale of compensation for disturbance, ranging from seven years' rent in respect of holdings valued at less than £10 a year, to less amounts for larger holdings, payable beyond the value of improvements, on eviction for any other cause than non-payment of rent.

This great land measure passed through both Houses of Parliament, without being challenged in principle, though many efforts were made to amend and defeat its details. Two causes contributed to its passing: the one, that the state of Ireland was so disturbed by agrarian agitation, that all parties recognised that legislation of some kind was necessary to restore social order; the other, that the representatives of the Conservative electors in the rural parts of Ulster were unanimously in favour of a measure which gave legal sanction to the custom of that province. It was



believed that the compensation payable under the Custom of Ulster, and under the provisions of the Act elsewhere, for disturbance of tenancy, would operate to prevent the undue raising of rent by landlords. The Act, however, contained no provision to protect the tenant, who should be unable or unwilling to leave his farm. It proceeded on the assumption that the payment of full compensation for the tenant's interest, and the fine on eviction in the case of small tenants, would be a sufficient deterrent to the bad class of landlords against raising their rents.

The Act also contained provisions, which were known as the Bright clauses, for the purpose of promoting the conversion of tenants into owners. These enabled the Treasury to advance two-thirds of the purchase money, on the sale of any holding to its tenant, repayable by equal annual instalments and interest, spread over thirty-five years, at the rate of £5 for every £100 advanced. This process had already in the previous year received a partial trial, by the provision in the Act for the Disestablishment of the Irish Church, which directed the sale of the landed property of the Church to its tenants, upon rather better terms; and under this provision about 5,000 tenants had produced one-fourth of the purchase money, and had been converted into owners. It was hoped that the Act of 1870 would be equally effective in promoting a peasant proprietary, on the lines which had long been advocated by Mr. Bright, who was then a member of Mr. Gladstone's Cabinet. With this object the Act directed the Landed

Estates Judge, on the sale of landed property in the usual course by his Court, to afford, by the formation of lots for sale or otherwise, all reasonable facilities to occupying tenants desirous of purchasing their holdings, so far as should be consistent with the interests of the owners of the properties thus dealt with.

These clauses of the Land Act proved to be an almost total failure. A select Committee of the House of Commons in 1877-8, presided over by the writer, investigated the causes of failure. It reported that, while in the six years since the passing of the Act, landed property, to the value of nearly six millions, had been sold by the Landed Estates Court to 11,500 tenants, only 523 tenants had been able to avail themselves of the provisions of the Act, and had been converted into owners. The Committee recommended many amendments of the Act, so as to facilitate the operation; it also advised that the proportion to be advanced by the State should be increased to three-fourths of the purchase money, and that the period of repayment should be extended, so as to make the terms easier for the tenant purchaser. It rejected, however, the suggestion that the whole of the purchase money should be advanced, and that the time of repayment should be extended to fifty-three years. "The objections," it said, "to such a scheme are that it would involve no exertion on the part of the tenants; that the period of repayment of the loan would be a very long one, equal to the average of two generations; that in the meantime the relation between the State and the

new owners would be very much that between a landlord and his tenants."

#### THE LAND ACT OF 1881.

Ten years had not elapsed before another formidable agrarian crisis arose in Ireland. The years 1878 and 1879 were exceptionally bad for tenant farmers. Continuous rains during the autumn of the last of these years ruined the crops of potatoes and oats, and made it impossible to dry the turf. The succeeding year, 1880, was also one of great loss to the tenants. Prices of all agricultural produce were very low. The agitation, which consequently arose in Ireland, was the more formidable, as the Ballot Act of 1872 had entirely destroyed what remained of the political influence of the landlords of Ireland, and had practically handed over its representation in rural constituencies—that is, in four-fifths of the whole of Ireland—to the tenant farmers. The landlords were less disposed to meet the agricultural crisis, by reductions of rent, than they had been before the Act of 1870. Many of them, in spite of this Act, had succeeded in raising their rents, so as to appropriate the interest, which it had been intended to secure to the tenants. It was true that the Act enabled the tenants, on a rise of rent, to quit their holdings, and to claim compensation for their tenant right, and in the case of small holdings, compensation for disturbance. But the tenants had no desire to give up their farms; they had no other means of living; they were compelled, therefore, to submit to the increase of rent.

In most cases the rents were increased by small amounts from time to time, each increase being such as the tenants would submit to, rather than give up their holding. It was found, therefore, by experience that the Act gave very little protection against rack-renting and grasping landlords. There arose, in consequence, an almost universal demand for further protection. The pressure was quite as strong from the farmers in the province of Ulster, as from those in the rest of Ireland; for the Act of 1870, while recognising the Custom of Ulster, had failed to provide security against its infraction and evasion by the frequent raising of rent. An unanimous demand arose from the farmers of this province for fuller protection of their tenant-right interests; they claimed that complete security could only be given by conceding to them fixity of tenure, the right of free sale, and the periodic revision of rents by some authority independent of the landlords. The demand known as the three F's—namely, Fixity of Tenure, Free Sale, and Fair Rents—embodied in their view the essential elements of the Ulster Custom.

In the General Election which took place early in 1880, the Conservative candidates for county constituencies in Ulster felt themselves compelled to concede the claims of the Ulster farmers. They also obtained from the Ministry an understanding that, if it should obtain a majority in the Elections, it would legislate in this direction. In the rest of Ireland the demands from the tenant farmers were at least as strongly in favour of agrarian reform, in the direction of



fixity of tenure and fair rents. Many of them advocated and demanded the extinction of landlordism, and the constitution of an universal system of peasant proprietors, by means of State loans. It may be said that Ireland was practically unanimous in favour of a revolutionary measure of Land Reform.

The Government which was formed under the leadership of Mr. Gladstone, after the General Election of 1880, found itself unable to deal with the whole question of Land Reform in Ireland without full inquiry. It postponed legislation for a year. Meanwhile, it appointed a Royal Commission, with Lord Bessborough as chairman, to investigate the subject; and it endeavoured to stave off the immediate crisis, and to protect the great body of small tenantry in Ireland from eviction for non-payment of rents, which had practically become impossible, by a temporary measure, known as the Compensation for Disturbance Bill. This measure proposed to extend to tenants, rented at under £30, threatened with eviction for non-payment of rent, during the next two years, the same protection, in the shape of compensation for disturbance, as was given by the Act of 1870, in the case of evictions for other reasons. It was supported on the broad principle that landlords ought not to be permitted to take advantage of an exceptional time of distress, to appropriate property that legitimately belonged to the tenants under the Land Act of 1870.

This measure aroused the most formidable opposition in Parliament. It was carried through the House



of Commons, after long debates, by majorities less, by one half, than the normal party strength of the Government. It was rejected by the House of Lords by a majority of 282 to 51, in spite of the emphatic declaration by the Government that it was necessary for the preservation of peace and order in Ireland, and in the face of the assertion of the Duke of Argyll—one of the strongest and most consistent supporters of the rights of landowners—that there were cases known to the Government, where landlords in Ireland were taking advantage of the failure of the crops, and of the inability of their tenants to pay rent, to clear their estates by wholesale evictions.

The rejection of this measure added fuel to the flames of agitation and disorder in the land, and made the task of the Government infinitely more difficult. Mr. Parnell expounded, at Ennis, his scheme of substituting, for violence and outrage, the social ostracism of persons who should take farms from which tenants had been evicted; and under the newly invented term of "Boycotting," this process became common in Ireland, and was used by local Land League Associations against any persons, who were obnoxious to them. Mr. Parnell and the leaders of the Land League were prosecuted by the Government for a criminal conspiracy in advising persons not to pay excessive rent, but were acquitted by a Dublin special jury. The murder of Lord Mountmorres, though not arising out of agrarian disputes, greatly excited public opinion in England.

In the following year, 1881, the Government proposed and carried a coercive measure of a trenchant

character, and a Land Act of a most comprehensive kind, for Ireland. However deplorable the state of things in Ireland, and however greatly to be condemned was much of the language used during the agitation, it must now be admitted that no such Land Reform could have been carried through Parliament, if it had not been for the agitation, and the disturbed state of that country. In the recess the Bessborough Commission had completed their inquiry and reported. They fully confirmed the complaints, which the Irish tenants had made of the working of the Land Act of 1870, and of the injustice from which these often suffered in the raising of rent, so as to appropriate the value of the improvements effected by them. They said that the Land Act had failed to protect the tenants from occasional and unreasonable increase of rent. Instead of attempting to amend the Act, they advised its repeal, and the enactment of a simple uniform Act for Ireland on the basis of the three F's.

“We regard,” they said, “the present condition of affairs in Ireland as a symptom of deep-seated disorder in the body politic. . . . If we are right in maintaining that grievances exist for which the present law provides no remedy, justice requires that a remedy should be provided, whatever may have been the conduct of individuals, and however widely the example set by them may have been followed. . . . The circumstances of the present occasion do indeed require that the remedy now to be proposed for an admitted grievance should be complete. We wish to place on record our decided opinion that, unless the measure is a full and exhaustive one, going to the root of the whole matter and settling it permanently, it would be better not to interfere with the question at all. We are able to point to

evidence that a complete measure of justice, though it may not be nearly all that is demanded by the more extreme, will bear along with it a more than usually good promise of acceptance. Nothing is more noticeable in the immense mass of evidence we have taken than the general moderation of the tone of those who feel themselves aggrieved by the existing law, and the almost complete absence of demands for measures of confiscation, and of proposals tending to create antipathy between class and class."

Another Royal Commission, presided over by the Duke of Richmond, and appointed to consider the Depression of Agriculture over the whole of the United Kingdom, had also devoted much of its labour to the case of Ireland. They admitted to a large extent the grievances of the Irish tenants and the failure of the Land Act of 1870. The majority reported as follows:—

"Great stress has been laid upon the want of security felt by an improving tenant, which, it is alleged, limits not only the number of persons employed, but also the quantity of food produced for the benefit of the community. Bearing in mind the system by which the improvements and equipments of a farm are very generally the work of the tenant, and the fact that a good tenant is at any time liable to have his rent raised in consequence of the increase in value, that has been given to the holding by the expenditure of his own capital and labour, the desire for legislative interference to protect him from an arbitrary increase of rent does not seem unnatural, and we are inclined to think that, by the majority of landowners, legislation, properly framed to accomplish this end, would not be objected to."

An influential minority of the Commission went much further, and recommended legislation based on the three F's.

The measure proposed under these circumstances by Mr. Gladstone, and ultimately carried through Parliament, was one of the greatest agrarian reforms ever conceived and enacted for any country. It secured to the main body of tenants, throughout Ireland, fixity of tenure, and the right of assigning and devising their holdings to any other person, without the leave of the landlord; it gave them the right to appeal to a special tribunal to decide as to what should be the rents for their holdings. The decision of the tribunal prescribes the amount of rent for a period of fifteen years, after which there is the right to apply for a revision. The general effect of the measure was to endow the tenants with a permanent interest in their holdings, to elevate them to the position of joint owners of their holdings with their landlords, and to create a system of dual ownership of land, throughout the length and breadth of Ireland. The true justification for this great Act was that this dual ownership already practically existed, from the circumstance that all the permanent improvements had been effected by the tenants and their predecessors in title; that in Ulster dual ownership had, in fact, been long recognised by the custom of that province, though imperfectly protected by it, and that the tenants' interests were bought and sold at large prices; that the best landlords in other parts of Ireland had practically acted upon the same understanding in their transactions with their tenants; that free contract, on which, theoretically and in point of law, the relations of landlord and tenant in Ireland were



based, did not, and could not, virtually exist under the existing conditions; that the tenant was unable to disengage himself from his interest in his holding, so as to contract on equal terms with his landlord with respect to future rent; and that the Legislature was bound to give protection to the tenants against unjust appropriation of their interests by the raising of rents.

It was maintained also that the three F's hung together by a necessary and logical sequence; that when it was conceded that the tenants were entitled to appeal to an independent tribunal, for the determination of the rent, as was advised even by the Duke of Richmond's Commission, this must necessarily involve a judicial term, during which the decision as to rent would run, and at the end of which there would be an equal claim for renewal; and that the creation of a term would equally involve the right to assign and devise it.

There were excepted from the provisions of the Act grazing farms rented at over £50 a year, farms on which the occupier was not resident, demesne lands and home farms, town parks, land let on lease, and finally all holdings managed according to the English system, where landlords had effected the permanent improvements.

There was a supplementary part of the Act, amending the Bright clauses of the Land Act of 1870, in accordance with the recommendations of the committee of 1877-8. It increased the proportion of the purchase money, to be advanced by the State, from two-thirds to three-fourths, and extended the term of repayment



from thirty-five years to forty-nine years. It contained special provisions for enabling the Landed Estates Court to meet the difficulty of breaking up properties into lots, so as to enable the tenants to buy. It set apart the sum of £5,000,000 to be advanced by the State under this scheme of purchase.

This part of the measure was purposely drawn so as to require of the tenant purchasers some money payment, as evidence of their desire and capacity to enter upon the new condition of absolute owners of their holdings, and as earnest of their ability to pay the annual instalments to the State. It was never put forward as the main feature of land reform; it was a supplementary proposal, with the object of gradually adding to the number of persons invested with the status of full ownership, and increasing the stability of landownership in Ireland. Proposals made in the course of the discussions in Committee, for the advance by the State of the whole of the purchase money, were steadily resisted, on the ground that they would inevitably result in a demand for the universal and compulsory application of purchase to every holding in Ireland, and the consequent expropriation of all landlords. ( It was pointed out that, in view of the great concessions made to the tenants, in giving to them fixity of tenure and judicial rents, and by raising them to the position of joint owners with their landlords, there was no longer the same motive, from an economic point of view, of multiplying owners under a system of State loans, with the object of giving security of tenure, and inducements

to improve their holdings; and that the policy of this part of the measure was comparatively unimportant.)

Referring at a later period to these clauses, Mr. Gladstone said of them: "They were so framed as *not* to say to the tenants, with the most dangerous approach to Socialism, 'We are going to make you proprietors of your holdings, and at the same time to reduce your rents.' They were framed in terms, the compliance with which would of itself show that the men who so complied were the picked men of their class, who would be an example to the community, and whose action—in itself highly beneficial—would have laid the foundation of a peasant proprietary on the principles of industry and of virtue." \*

The measure, though its main provision was vehemently attacked by the Conservative members, as one involving confiscation of the rights of property, was met in the House of Commons on its second reading, not by a motion for its rejection, but by a very ambiguous motion. An amendment was moved by Lord John Manners to the effect that "the House, while anxious to maintain the security and efficiency of the Custom of Ulster and other analogous customs, and to remedy any defects in the Land Act of 1870, is disposed to seek for the social and material improvement of that country by measures for the development of its industrial resources, rather than by a measure that confuses, without settling on a general and permanent basis, the relations between landlord and tenant."

\* Hansard, Vol. 330, p. 1536.

This half-hearted amendment was rejected by a majority of 352 to 176. Of the Irish members, thirty-five, under the leadership of Mr. Parnell, abstained from voting, on the plea that the measure was insufficient as a remedy; twenty-four other Home Rulers, twelve Liberal members for Ireland, and thirteen Conservative members for rural constituencies in Ulster, voted in favour of the Bill. The measure then had the support of an enormous majority of the Irish members who took part in the division, and there was every reason to believe that its main principle was acceptable to the mass of the Irish tenantry.

In the House of Lords, Lord Salisbury, as leader of the Opposition, bitterly attacked the Bill, which he described as one "giving to tenants the right to sell that which they had never bought" and "to tear up contracts by which they had bound themselves." He denied that it would be accepted in Ireland—except, perhaps, for a very short time—as a message of peace; for thenceforward the landowners would look upon Parliament and the Imperial Government as their worst enemies, and, in view of recurring general elections, would be living in perpetual apprehension of earthquakes. In view, however, of the state into which Ireland had been allowed to drift by the culpable carelessness of the Government, and of the apprehension which haunted the landlords there, he could not recommend his followers to vote against the second reading of the Bill, but rather to apply themselves in committee to remove some of its glaring injustices,

and to wait, and see how their amendments would be received.\*

In pursuance of this policy, a number of amendments were moved, and carried by overwhelming majorities, fundamentally altering the Bill in the interests of land-owners. These amendments were, with few exceptions, rejected by the Commons, and the Lords finally insisted on two or three only, not of vital importance to the measure—namely, the exclusion of English-managed estates and of long leaseholds. The measure therefore finally passed into law without substantial amendment, so far as the great body of the tenantry of Ireland was concerned.

Looking back at this great and comprehensive measure, which, for breadth of conception and completeness of detail, has rarely been surpassed—one which effected an agrarian revolution in Ireland of an unprecedented character, and the passing of which was due to the eloquence, lucidity, and exposition of general principles, combined with a mastery of details, on the part of its chief author—it may be permitted to regret one circumstance only connected with it, which unfortunately militated against its being accepted as a complete settlement by the Irish people: that it was not found possible to consult the leaders of the Irish party, to a greater extent, as to its details, either before the measure was introduced, or while it was passing.

Finality in an agrarian measure is of the utmost importance, and can only be achieved by obtaining the

\* Hansard, Vol. 264, p. 267.

previous consent of the leaders of those for whom the remedial legislation is intended. It has been one of the misfortunes of the system of the Government of Ireland, that its popular leaders have never been in a position where they were themselves responsible for legislation, and were seldom even consulted in the framing of measures of reform by those responsible for them.

In the case of the measure now under consideration, the majority of the Irish members under the leadership of Mr. Parnell took exception to it in detail on the following points:—

1. That the term of fifteen years was too long, in the probable event of a considerable fall in the prices of agricultural produce, and that there ought to be some means of revising such rents, according to a scale of prices.

2. That the Land Commissioners ought to have power to deal with the arrears of excessive rent, which were hanging round the necks of vast numbers of tenants.

3. That the Act should apply to leaseholders, and to the holders of town parks.

4. That the reduction of rent ought to date from the day, when the application is made for judicial rents, and not from the day, when the decision of the Court is given.

5. That the Commissioners ought to have power to deal with the congested districts, by buying land and adding it to the insufficient holdings of the smaller tenants.



6. That power should be given to local Authorities to buy land, on which to erect decent cottages for the labouring people.

7. That in the case of the purchase clauses, the whole of the purchase money ought to be advanced by the State, and the terms of repayment extended, so as to lessen the rate of annual payments.

It will be seen that all these points have since been conceded by Parliament. It is impossible, therefore, not to conclude that it would have been far better if many of these concessions had been made at the time when the principal Act was passed.

The measure, however, was already most heavily freighted. A little more would have caused the vessel to founder in the difficulties which surrounded it. Concessions had to be made, rather to the enemies of the Bill, to the representatives of the landlords in both Houses of Parliament, than to the tenants, and to the representatives of the people of Ireland. The criticism points rather to the general treatment of Irish questions in Parliament since the Act of Union; to the traditional neglect of Irish opinion; and to the fact that Irish reforms have invariably been proposed by Governments in which the great majority of the Irish people were not represented, and submitted to the decision of a House of Commons of whose members the vast majority knew nothing of the condition of Ireland, and were fearful that what was to be done there, would be quoted as a precedent hereafter for legislation affecting England and Scotland—and to a House of Lords, where the only Irish peers were landlords, and

whose members generally regarded Irish questions from the point of view only of landlords.

#### THE ARREARS ACT OF 1882.

A year had not passed, from the enactment of this measure, before it became necessary to deal with one of the principal subjects omitted in the Act of 1881: that of Arrears of Rent. In consequence of the bad years of 1878 and 1879, and the subsequent fall of prices, a vast number of the smaller tenants in Ireland had several years of arrears hanging round their necks. These practically prevented their going to the Land Commission for the revision of their rents, as the landlords were able to threaten eviction for the arrears due, if the tenants should take this course. It was thought expedient, therefore, in the interest of peace in Ireland, and for the success of the Land Act, to legislate on this question. The Arrears Bill, laid before Parliament in 1882, provided that in respect of holdings of £30 rental and under, where the tenants, who were in arrear of rent, could show that they had paid the year's rent due between November, 1880, and November, 1881, and could prove their inability to pay the residue, the State would advance one-half of the arrears accruing due before November, 1880, not exceeding one year's rent. All the remaining arrears were to be cancelled. The arrangement was to be compulsory on the landlords. Tenants, evicted up to a certain date, were to have the benefit of the Act, as well as of the six months' equity of redemption given by

the general law. It was estimated that £2,000,000 would be required from the State for this purpose, of which £1,500,000 was to be taken from an Irish Fund, the surplus of the property of the Disestablished Church, and £500,000 from the Consolidated Fund. Of the large body of tenants paying under £30 a year, it was expected that one-third would make claims under the Act. Assuming that the arrears amounted generally to more than two years' rent, the effect of the Act was to make a free gift out of an Irish Fund of one year's rent, to require the tenant to pay one year's arrears, and to wipe out all the residue. It was admitted by the Government, in making the proposal, that it could not be defended on logical grounds, and that the interference of the State, in the settlement of debts by compulsion and gifts, could not be justified either on economic or on constitutional principles. It was defensible only on account of the state of Ireland, and because a clearance of accounts all round was necessary for both landlords and tenants, to enable them to make a fresh start under the Land Act.

This very moderate measure was vehemently contested by the Opposition in both Houses of Parliament. It was denounced as a sop to discontent, a makeshift expedient, demoralising in its effect, and one that would sow the seeds of worse complications. It passed the Commons only after long discussions and many divisions. In the Lords, the Opposition mainly concentrated itself upon the compulsory clause. Lord Salisbury moved an amendment, giving to landlords the option of refusing to

compound for arrears — in other words, making the measure dependent on the consent of the landlords. “If,” he said, “there was such a thing as stealing on the part of the State, that offence was proposed by the Bill. . . . Confiscation was proposed. The only way in which the Bill could be brought into correspondence with principles of common honesty, was to make the application of the compulsory powers optional with the landlords.”\* His amendment was carried by 169 to 98. On the third reading of the Bill, Lord Salisbury vehemently attacked the Prime Minister, saying, “that it seemed as if he took pleasure in using a great public crisis, when all the forces of insurrection were behind him, to undermine the rights of private property. If the Government persisted in their obstinacy, and the measure failed, the responsibility would rest with them.”†

From Lord Salisbury’s language and attitude in this debate and elsewhere, it seemed as though the House of Lords was about to embark in a great constitutional conflict with the House of Commons. But wiser counsels soon prevailed. The House of Commons rejected Lord Salisbury’s amendment by a large majority; but Mr. Gladstone’s conciliatory attitude on minor points brought many opponents to the view that it would not be wise to allow the measure to fail. At a meeting of the Conservative peers, held by Lord Salisbury, there was revolt against his authority; and a large majority decided, in spite of his advice, not to insist upon his amendment. When the Bill again came under discussion

\* Hansard, Vol. 273, p. 158.

† Hansard, Vol. 273, p. 352.



in the Lords, Lord Salisbury persisted in his contention that the measure in its compulsory form was one of public plunder. "I believe," he said, "that the Bill will be only permissible with the alteration in it, which makes the consent of the landlord necessary before it can be put in operation, and without that alteration, I believe it to be a most pernicious Bill—that it is one of simple robbery, and one that will bear the gravest fruit in the legislation of the future. These are my views. I have had the opportunity this morning of conferring with the noble lords, who form the majority of your lordships' House, by whom this amendment was carried, and I found that the overwhelming majority of their lordships were of the opinion, that in the present state of affairs, especially those which have recently arisen in Ireland and in Egypt, it is not expedient that the Arrears Bill should be thrown out. I do not share that opinion. If I had the power I would have thrown out the Bill. I find myself, however, in a small minority, and therefore I shall not divide the House."\* A grave political crisis was thus averted. The Lords again gave way and passed the Bill.

Much advance has been made on such questions since this discussion. It will be seen that in the Scotch Crofters' Act of 1886, when judicial rents were conceded to the crofters, who were practically in the same position as the small tenants of Ireland, Parliament, without a protest from anyone, gave to the Commissioners the power, when determining the judicial rent of a holding,

\* Hansard, Vol. 273, p. 1335.



to wipe off any arrears of rent they might think fit. No one then denounced this as confiscation or public plunder. The Commissioners availed themselves freely of the power, and wiped out arrears to a far greater extent than did the Arrears Act in Ireland, while the landlords got nothing as a sop from any Scotch fund, as did the more fortunate landlords of Ireland. In fact, when the subject is dispassionately considered, apart from the party feeling, which may have existed at the moment of its first discussion, it would seem that when the principle of judicial rents is conceded,—when it is admitted that the relation of owner and occupier is not that of landlord and tenant in the ordinary sense of the term, but that of joint ownership,—and when the tribunal to determine rents makes large reductions,—it should follow as a matter of justice that there should be an extinction to a large extent of any arrears of rent which, in the opinion of the same Court, the tenant cannot pay, and which have been due to the past attempt of the landlords to extract what is thus judicially admitted to be an excessive and unjust rent. That is, in effect, what the Arrears Act did for the Irish tenants; it wiped out arrears of rent for more than one year, if the Commission, to whom the matter was reserved, should hold that the tenant was unable to pay any more. So far as the landlords were concerned, it gave them a bonus, for consenting to the measure, in the shape of the payment of a second year's rent in arrear out of the surplus of the Church Fund. It is generally understood that it was the Irish peers, as representing the landlords of that

country, who, delighted at this unexpected prospect held out to them of getting two years' arrears of rent paid down, persuaded the majority of the Conservative peers to revolt against Lord Salisbury, at their meeting, on the day when he gave way in the House of Lords.

Never did a remedial Act effect its purpose more rapidly and effectually. It appears that the number of tenants, who applied for the wiping out of arrears under it, was 135,997, of whom 129,952 were allowed ; and the amount paid to landlords out of the Church funds was £812,321—much less than was anticipated. The effect upon social order in the disturbed districts was most marked, and thousands of tenants were enabled to go before the Land Commission, and get their rents reduced.

#### THE LAND COMMISSION.

In the meantime, and since the passing of the Land Act, the Land Commission was at work. It appointed numerous sub-commissioners for hearing and determining applications for the reduction of rent. It soon appeared that the cases of excessive renting were far more numerous, and far graver, than had been expected, even by the authors of the Land Act. The sub-commissioners made large remissions, and were supported, on appeal, by the chief commissioners. It may be presumed that some of the worst cases of over-renting were the first to be brought into Court. As the result of four months' working, 1,500 cases were decided, at an average

reduction of rent, of 25 per cent. This caused great consternation among the landlords of Ireland. In the early part of 1882 they brought their grievances before the House of Lords, through Lord Donoughmore, complaining desperately of the action of the Land Commission, and demanding immediate inquiry into the working of that body.

The motion was vigorously opposed by the Government, on the ground that it was really directed against the Land Act itself, that it would tend to paralyse the action of the Commission, and that about four months only having elapsed since the Act had come into force, it was much too soon to form an opinion as to the working of the Commission. The Government was defeated by a majority of 96 to 53. A Select Committee was then appointed to inquire into the working of the Land Act. The Government refused to take any part in it, and the inquiry was necessarily therefore of an *ex parte* character. The Committee took much evidence as to the complaints by landlords of the working of the Commission and the Sub-Commissions, and drew up a hostile report; but nothing came of it, unless it were, as the Irish members have asserted, that it frightened the Sub-Commissioners into greater tenderness to the landlords in their reductions of rent. The really important part of the report as regards future action was that relating to the Purchase Clauses of the Act of 1881. On this point the Committee reported as follows:—

“The provisions of the Act, 1881, intended to facilitate the purchase by tenants of their holdings, were by some persons

looked upon as the most important, and by almost all as among the most important features of the legislation. The witnesses concur as to the great national benefit, political and social, which may be expected from an operation which would, on just and reasonable grounds, convert a number of tenants in Ireland into proprietors of their farms. This view, and the arguments in support of it, derive great additional force from the present condition of Ireland; the unexpected operation of the Act of 1881 upon the interests of landlords; the dislocation of the relations which have long subsisted between landlords and tenants; and the circumstance that it is no longer possible for landlords, by reason of this dislocation, to discharge the great public functions hitherto devolved upon them. All the witnesses are agreed that the present arrangements made to promote the purchases of holdings must be taken to have failed."

They gave three reasons for the failure:—

"1. The fact that the great bulk of land in Ireland was subject to entails and family settlements, and that the proceeds of the sale to the tenants could by law be invested only in Government stocks.

"2. In great numbers of cases properties were subject to land rents, and there were no means of apportioning these rents away to different holdings sold to tenants.

"3. The main obstacle, however, was, that there was no sufficient inducement under the Act for tenants to purchase their holdings at any price at which the owners would be likely to sell, so long as the tenants were required to pay down one-fourth of the purchase money; and that the other parts of the Act giving fixity of tenure and the right of sale had reduced greatly the inducement to the tenants to make any sacrifice for the purpose of obtaining full ownership."

"There is a concurrence of opinion," the Committee added, "that no scheme for converting tenants into proprietors, which requires the tenant to pay down a portion of the purchase money,





or to pay a yearly instalment greater than his rent, is likely to be successful; but that, on the other hand, if these difficulties could be avoided, there would be a general desire on the part of the tenants to become purchasers."

They advised that the whole of the purchase money should be advanced by way of loan from the State, that the interest should be reduced to 3 per cent., and that the repayment by instalments should be spread over sixty-six years, making the annual charge only  $3\frac{1}{2}$  per cent., or over forty-six years with an annual charge of 4 per cent. They showed that on these terms, at twenty years' purchase of the holding, there would be a reduction in his annual payments, to the purchaser, of 15 per cent. as compared with his previous rent. The proposal, as was to be expected, killed the purchase clauses of the Act of 1881, for no tenant could be expected to buy on the terms offered by it, in view of the far more favourable terms recommended by the Lords Committee.

In 1885, the Government of Mr. Gladstone was defeated on its Budget, and in the prospect of a renewal of some of the clauses of the Coercion Act, by a combination of the Conservative Party, and of the Irish Nationalists under the leadership of Mr. Parnell. A new Government was formed by Lord Salisbury; and for the remainder of the Parliament, and during the interval which elapsed before the General Election in the autumn, there was an *entente cordiale*, if not a closer relation, between the new Government and the Irish party—one which was fruitful of results affecting Land questions in Ireland.



## THE LAND PURCHASE ACT OF 1885.

It was during this period that Lord Ashbourne's first Land Purchase Act was passed, with the cordial support and approval of Mr. Parnell and his followers. In fact, its details were the subject—and very properly so—of previous negotiations between the Government and Mr. Parnell. By this Act the Treasury was empowered to advance the whole of the purchase money, for the sale of any holding to its tenant, subject to the approval of the Land Commissioners that the price was fair and reasonable. The interest to be charged was fixed at 3 per cent., and as the principal sum was to be repaid by equal annual instalments, spread over forty-nine years, the actual annual charge during this period to the tenant purchaser was 4 per cent. At the end of that term the holding was to be free from all charge to the State. Of the purchase money, one-fifth was to be retained by the Land Commissioners as a guarantee fund, from which, in the event of default by the purchaser, the State could recoup itself, and was payable to the landlord after the equivalent proportion should be repaid by the annual instalments. Two additional Land Commissioners were appointed to carry out this Act. The total advance from the Treasury was limited to £5,000,000. The measure passed with practically little opposition. It was treated as an experiment which might be worth testing. It was pointed out, however, that its terms were so generous to the purchasing tenants that they amounted to a bribe to them to avail

themselves of it, and to purchase of their landlords, and that if successful, in the sense that numerous transactions should take place, in which the interest and instalment would be less than the previous rent, there would be so great an inequality created between the new class of occupying owners, and the old class of tenants, paying rent for ever, that there must arise an universal demand for the compulsory enforcement of sale upon all landlords.

During the same brief period before the General Election, another measure of importance, affecting the interest of labourers in Ireland, and giving to local authorities power to purchase land compulsorily for cottages and gardens, was also passed by arrangement between the Government and the Irish leaders. It will be adverted to later, when the special legislation for labourers is discussed.

#### THE LAND PURCHASE SCHEME OF 1886.

In the autumn of 1885 the General Election took place, which resulted in the overthrow of Lord Salisbury's Government. It is no part of the object of this work to enter upon any account of the Home Rule policy of the Government which was then formed by Mr. Gladstone, or of its ultimate defeat and rejection at another General Election in 1886. In dealing, however, with the general course of agrarian reforms, it is necessary to recall the fact that simultaneously with the Home Rule Bill, and as part of its policy, a Land Purchase scheme was also proposed by

Mr. Gladstone. It is true that this measure fell to the ground when the Home Rule measure was defeated ; but a proposal such as that made in the Land Purchase Bill was a matter of grave and permanent significance, and one that could not but have an effect on the future course of legislation.

Under this Bill, it was proposed to give to every landlord in Ireland the option of being bought out by the State, upon certain definite terms, in respect of all land let by them for agricultural purposes, but not including demesne lands and woods. Whenever the landlords exercised this option, the land was to become the property of the tenants on the terms of the Act. In respect, however, of holdings of £4 rent and under, the tenants were to have the option of refusing the terms of ownership.

The price to be paid under this scheme to the owners was twenty years' purchase of the judicial rent, after deducting law charges, bad debts, and cost of management; and where no judicial rent had been fixed, the value was to be arrived at by a computation based on the relative valuation for rating purposes, and judicial rents of other land in the district. It was obvious that the actual terms of purchase would vary very much, and that in respect of very small holdings, where the cost of collection had been great, and where, in bad times, large remissions of rent had been made, the number of years' purchase might not be more than from twelve to fourteen, while for larger farms it might be eighteen years. Mr. Gladstone, in his first statement, estimated that

£113,000,000 would be the extreme limit of the amount required for this scheme of purchase, on the assumption that nearly all landlords would avail themselves of it; but later he reduced his estimate, and maintained that £50,000,000 would be sufficient for any demand that was likely to occur, having regard to the fact that many landlords would not exercise the option. The payment to the landlords was to be in a 3 per cent. Land Stock, specially created for this purpose, the interest of which, and the sinking fund for repayment in fifty years, was to be a first charge upon the Irish revenues.

This scheme of purchase was denounced by the opponents to the Home Rule Bill, and its unpopularity among the English and Scotch constituencies largely contributed to the defeat of that measure. Nor were the Irish landlords at all appeased by this offer to relieve them from all concern as to the possibility of adverse legislation at the hands of an Irish Parliament.

On the rejection of the Home Rule Bill a General Election took place, in which the Government of Mr. Gladstone failed to secure a majority for their policy, and a new Government was formed immediately after, with Lord Salisbury at its head.

#### THE AGRICULTURAL CRISIS OF 1886.

In the autumn of 1886 there occurred another agrarian crisis in Ireland—the result, in part, of a failure of the potato crop in many districts in the west and south of the island, and in part, of the great fall in the price of cattle and other produce in 1885. The



Land Commissioners showed their appreciation of the grave depression of agriculture, by making in 1885-6 far larger reductions of rent in their judicial determinations under the Land Act of 1881, as compared with Griffith's valuation, than in the years 1882 to 1884.

On the meeting of the new Parliament in the autumn of 1886, and the constitution of a new ministry under Lord Salisbury, the Irish members, through their leader, Mr. Parnell, now at the head of eighty-six out of the 103 members from Ireland, made a demand for immediate legislation to meet the crisis. In a Bill laid before Parliament he asked for a revision of judicial rents fixed before 1885, for the inclusion of leaseholders in the Act of 1881, and for temporary relief for those who had not yet applied for judicial rents, by the suspension of proceedings for the recovery of rent, on payment of half the rent and arrears due.

Mr. Parnell, on moving the Bill, justified the measure as a temporary one, to meet the existing emergency, and applicable only to the existing rents and those of the coming year. He maintained that prices had fallen by an average of more than twenty per cent. He showed that the Land Court was itself recognising this fall by reducing the rents by twenty per cent. more than before 1884. He contended that it was not just or fair that the whole of this heavy reduction of prices should fall on one of the two classes of co-owners of land in Ireland.

The new Government refused assent to the Bill. The Irish Secretary, Sir M. H. Beach, declined to reopen the judicial rents, awarded under the Land Act of



1881. He denounced the measure as one of gross injustice and confiscation to the landlords of Ireland. He threw doubts upon the gravity of the crisis. He promised, however, a Royal Commission to inquire into the facts, and into the condition of the Irish tenants under the existing depression. The measure, supported by the Liberal party and the Irish members, was rejected by a majority of ninety-five.

In the winter which followed, agrarian agitation was again rife in Ireland. A large proportion of the landlords made considerable abatements, of from fifteen to thirty per cent., of their rents, even of judicial rents, in order to meet the difficulties of their tenants; but many of the worse landlords refused to do so, insisted upon full payment of rent, and supported their claims by wholesale evictions. The tenants then proceeded to combine together to offer payment of rent with reasonable abatements only; and the form of combination, known as the Plan of Campaign, was devised and recommended to the tenants, by some of the leaders of the Irish Nationalists, and was adopted by the tenants on a certain number of estates.

It was claimed by the authors of this form of combination that it was mainly instrumental in inducing the great majority of landlords to make abatements of rent, and that it was only put in force in a few of the worst cases, where the landlords declined to adopt this course. It was not justified as a proceeding which, in ordinary times, would be defensible, but as one which gave protection to tenants in their just claims when the

Legislature had refused to listen to their demands. The combination was pronounced to be a criminal conspiracy by the Irish Judges, but a Dublin jury refused to convict its authors.

Meanwhile, during the autumn and winter the Royal Commission promised by the Government, and presided over by Lord Cowper, proceeded to carry out their inquiry. Their report fully vindicated the claims made by the Irish members in the autumn session of 1886. It confirmed the view as to the great stress upon tenants, owing to the very low price of produce and stock of all kinds. It advised that there should be a reduction of judicial rents to meet the crisis. It strongly condemned, however, the agrarian combinations, and suggested coercive legislation for the purpose of putting them down.

#### THE LAND ACT OF 1887.

When Parliament met in 1887, the Government, following many previous precedents, proposed simultaneous legislation of a coercive and remedial character—coercion, to put down the combinations of tenants, and to prevent the boycotting of persons and of evicted farms; a remedial measure, to meet, in a very partial manner, the now admitted grievances of the tenant farmers.

Their Land Bill was introduced in the House of Lords. It practically amounted to little more than the extension of the Land Act of 1881 to leaseholders, other than perpetual leaseholders, and to the holders of

town parks, and the dealing with arrears of rent, on the principle of bankruptcy, in the County Courts. The Government declined to adopt the recommendation of their own Royal Commission for the revision of judicial rents. To disturb a settlement intended by Parliament to be permanent, it was said, would lead the Irish tenants and people to believe there was no prospect of any finality in regard to land legislation. There was a clause, however, greatly in the interest of the landlords, enabling them to turn tenants, who neglected to pay their rents, into caretakers of their holdings by mere notices, and without the necessity of previous evictions.

In the House of Commons the bankruptcy clauses were all but universally condemned, as certain to lead to litigation, fraud, waste of money, and demoralisation, and they were ultimately withdrawn. The Government was also compelled by the Dissident Liberals to give way on the subject of the revision of judicial rents, and finally agreed to a clause of a temporary character, enabling rents, fixed before 1886, to be reduced, during the next three years, by the Land Commissioners, according to a scale of prices of produce. The Government, however, resisted all appeals to them to deal with arrears of rent, which had accumulated during the two years of bad seasons, otherwise than by the abandoned bankruptcy clauses. It was generally admitted that the subject of arrears ought to be dealt with, but no agreement was come to, and the almost unanimous demand of the Irish members was rejected. The clause with respect to evictions, was

also vehemently opposed by the Irish members. Under the previous state of the law, when a tenant neglected to pay rent, the landlord had the right to evict him. After the eviction there was a period of grace of six months, during which the tenant had the right of redeeming his holding, by payment of the rent due and costs. During this period, therefore, it was impossible for the landlord to let the land to a new tenant. The practice was for the landlord, after eviction, to re-admit the tenant as caretaker of the holding, pending the six months' grace. At the end of this period a second eviction was often necessary, if the tenant was still unable to pay arrears of rent. The new clause proposed that the landlord might dispense with the first eviction by merely giving a formal notice to the tenant. The legal effect of the notice was that the tenant ceased to be a tenant in the legal sense of the term, and was converted into a caretaker, and that the six months' grace was to run from the date of such notice. It was contended by the Irish members that this clause would enormously facilitate the process of eviction, and would enable the landlords, in a period of general agricultural distress, to deprive their tenants by wholesale of their status as judicial tenants, and to turn them into tenants-at-will by simple notices, reserving to themselves the right to evict them at any convenient time thereafter, or to retain them as tenants without the protection of the Land Act of 1881. The Government, however, stood firm by their proposal, and the clause was carried, in spite of the protests of the great majority of the Irish members.

In the House of Lords, Lord Salisbury, while renewing his objections to a revision of judicial rents, as a measure of confiscation, said that his Government found itself compelled to accept the amendment, as otherwise many persons in the north of Ireland might, when a General Election occurred, be found voting for Home Rule.\* The measure, as thus amended, carried the much-attacked principle of dual ownership to nearly its extreme point, and to its logical conclusion. Unfortunately, the Government neglected to make a complete settlement, by refusing to listen to the almost unanimous demands of members from Ireland, of all parties, to deal with the question of arrears, which had grown up in the last two years. They were so enamoured of their scheme of dealing with this question on the principle of bankruptcy, that they refused to entertain any other method. It followed that the disputes on the estates where combinations had been entered into remained unsettled, and were left to drag on for long years to come, with all the suffering and bitterness entailed upon all parties. As it stood, the Act was strong testimony to the policy of listening to the demands of the Irish members on purely Irish questions. There was nothing in it, except the eviction clause, which the Irish members had not demanded in 1881. If, again, the Irish members had been listened to in 1886, and this measure had then been passed, there would have been no agrarian agitations, no combinations, no Plan of Campaign, and no necessity or excuse for coercion. The

\* Hansard, Vol. 319, p. 15.



clause facilitating eviction has also had the effect predicted by the Irish members. Tenants have been turned into caretakers under it, by simple notices, at the rate of about 5,000 a year. The bulk of them have not since been evicted. They remain in possession of their holdings on sufferance. They have altogether lost their rights under the Land Act. The landlords can evict them at any moment which may be convenient, or may impose any terms on them, or claim any amount of future rent. At this rate a large proportion of the smaller tenants in Ireland may in time lose the protection of the Act of 1881.

In 1891 a further extension was given to the principle of dual ownership by conceding the benefits of the Land Act of 1889, in respect of judicial rents, to perpetuity leaseholders, who had been excluded from the Act of 1887. This was done by a measure with the innocent title of "*The Redemption of Rent Act.*"\* By its provisions the lessee under a perpetuity lease may call upon the owner to sell his interest in the land, upon terms to be settled by the Land Commissioners, under the Land Purchase Act of 1891; and in the event of the owner objecting to this, the Land Commissioners have the power, on the application of the lessee, to determine what reduction of rent shall be made. This measure, which passed with scarcely any notice, seems to contain the germ of a compulsory purchase of landlords' interests. At all events, it carries the principles of judicial rents and dual ownerships to their most extreme point.

\* 54 and 55 Vict. c. 57.

## CHAPTER VI.

### LAND PURCHASE IN IRELAND.

IN the same year, 1891, there was also carried another scheme for future agrarian reform in Ireland—Mr. Balfour's Land Purchase Act. Lord Ashbourne's Act of 1887, which provided for the advance of £5,000,000 for the purchase by tenants of their landlords' interests, had been supplemented by another Act in 1889, making a further advance of the same amount; and the scheme of advancing the whole of the purchase money upon such favourable terms had been so far successful, that the whole of the £10,000,000 was approaching exhaustion, at the beginning of 1891. Upwards of £11,000,000 had been applied for. Sales to the extent of £8,900,000 had been sanctioned by the Land Commissioners, and £6,928,000 had actually been advanced. For this amount 13,700 tenants—or rather, joint-owners—had been converted into full owners of their holdings, subject to payment to the State of interest and instalments of capital for 49 years. The average terms between landlords and tenants were about  $17\frac{1}{2}$  years' purchase of the rent, varying from 23·6 years' purchase, in some cases, to as little as 11·5 years' purchase in others. The average rate of purchase showed a tendency to fall. In 1886 it was

18 times the rent, in 1888 it was 17, and in 1890 it was 16·7 times the rent. At  $17\frac{1}{2}$  years' purchase the interest and instalments payable by a purchaser whose previous rent has been £100 a-year, is only £70—a reduction of 30 per cent. Of this annual amount, however, £17 10s. represents payment to the sinking fund, for extinction of the debt in 49 years, and therefore adds as much every year to the value of the holding in the market. The true comparison, therefore, is between £100 a-year of rent and £52 10s. of interest on the advance from the State, to which should be added the landlord's proportion of the local rates, averaging about £4. The real reduction, therefore, is £44 a-year, or 44 per cent. This great boon is due to the use of money borrowed from the State at 3 per cent., to purchase the landlord's interest on the very low terms of  $17\frac{1}{2}$  times the rent.

The new measure of Land Purchase introduced in 1890 by Mr. Balfour, and carried by him into law in 1891, is based on the general lines of Lord Ashbourne's Acts, in the sense that the whole of the purchase money of holdings, sold to the tenants, is to be advanced by the State, at a very low rate of interest. The principle, however, of local guarantee is introduced by way of security to the Imperial Exchequer for the much larger advances now contemplated. Certain contributions from the Treasury to Irish local authorities, for the support of lunatics and paupers, and for educational purposes, are hypothecated, without the consent of these bodies, as security for the payment of the interest and instalments of the tenant purchasers within their districts.

The capital value of these contributions, reckoned at 30 years' purchase, amounts to about £33,000,000, and this is defined as the maximum sum which can be advanced by the Imperial Treasury for the purpose of land purchase in Ireland; but it is provided that, as this capital sum is repaid by the annual instalments, it may be re-lent again *ad infinitum*: a process under which it is possible, that in about 100 years, the whole of the agricultural land in Ireland may be subjected to the process of purchase. The principle of local guarantee being asserted, it follows that the amount to be advanced in any district must be proportionate to the share of such district in the Imperial contributions.

In the case of default of payment by the purchasers of their interest and instalments, the Imperial Treasury has power to withhold payment of the contributions, which have been hypothecated by the Act, from the county in which the default takes place, and the authorities are then empowered to make good the deficiency in the State contributions, out of the rates. In the event of their neglecting or declining to do so, the Lord-Lieutenant has power to levy rates on the district for the purpose. By this process it is proposed to make the rate-payers of Ireland responsible for the default of the purchasers of holdings under the Act in their several districts. Their consent, however, to the advances is not required; the Irish people, therefore, through their representatives, protested against this enforced guarantee.

The terms of the State advances, so far as the tenants are concerned, are the same as under the Ashbourne



Act: namely, £4 for a term of 49 years, to cover the interest and sinking fund for every £100 advanced; but the interest charged by the State is only £2 15s. per cent.; the difference between this and the £3 charged under the Ashbourne Act—viz., 5s. per cent.—is payable to the local Authorities, and is to be employed by them for the benefit of the labourers, in the building of cottages under the Labourers' Acts of 1883 and 1885. On the assumption that the whole £33,000,000 will be advanced, the annual sum thus payable will be £82,000. The object of this provision is to secure some part of the benefit of the Land Purchase scheme for the most necessitous class in Ireland.

Besides the security afforded by the Imperial contributions, there are other securities under the Act for the payment of interest and instalments by the purchasers, which are to be resorted to in the first instance, and before the local ratepayers can be called upon to make good deficiencies, under the process already explained. These are :—

1. The Landlords' Reserve Fund, established under the Ashbourne Act.

2. A new Imperial grant for local purposes of £40,000 a year, which is to accumulate for five years, until a fund of £200,000 is provided as a special reserve fund.

3. A Tenants' Reserve Fund is further provided by requiring that, whatever the terms of sale, the purchasing tenant shall for the first five years pay to the State at least 80 per cent. of his previous rent. In the



case, for instance, of a sale being effected at seventeen years' purchase, the interest and instalments payable on a holding of £100 a year would, under Lord Ashbourne's Act, be only £68, a difference of £32 a year in favour of the occupying purchaser. Under the provision of Mr. Balfour's Act, the purchaser is required to pay for five years the minimum sum of £80; the difference of £12 a year is to accumulate for these five years, and to form a Tenants' Reserve Fund. At the end of the five years the annual payments will be readjusted in view of the excess payment during this period. Instead of being £68 a year, they will be considerably less. In bad seasons, if purchasers are unable to pay their instalments, the Commissioners, if satisfied as to their inability, may draw upon the reserve fund, and prolong *pro tanto* the period of extinction of the debt.

Another reason was given by Mr. Balfour for this provision that for five years the annual payments should be not less than 80 per cent. of the previous rent:

“We think,” he said, “that so large and sharp a reduction as from £100 a year of rent to £68 a year of interest and sinking fund, may produce, and we think will produce, considerable difficulty on adjoining estates, where purchase may not have taken place. For recollect, what we are doing is this: we are giving to the tenant an immense advantage which the landlord could not, from the nature of the case, give him. The contrast between the position of a tenant who has purchased, and a tenant who has not, is so sharp, if you give the full reduction all at once, that we think the temptation to put undue pressure on the landlord to induce him to sell, or the discontent which will ensue if he does not sell, are sufficient reasons for making this

change from the rent which the man has paid to his landlord, to the annuity which he will ultimately have to pay to the State, as gradual as possible."\*

A very important section was added in the course of the Committee on the Bill, with the approval of all parties, and with the object of bringing to a conclusion the agrarian disputes, which had remained unsettled of late years, by the reinstatement of the evicted tenants, as purchasers of their former holdings. Clause 13 provided that advances might be agreed to by the Land Commissioners in such cases within six months after the passing of the Act, in spite of the fact that the evicted men were not in possession of their holdings. It was agreed on all hands that the reinstatement of these men was expedient, in the interest of peace and order in their districts.

This measure was presented to Parliament by its author as a final one, as a complete solution of the Irish Land Question, by providing for the ultimate substitution of a system of peasant proprietors for the dual ownership now existing, and in the meantime as exhausting completely the securities on which public money could be safely lent. It need scarcely be observed that it does not affect Ireland only; it involves Imperial credit on a very great scale, in which England and Scotland are even more interested. All the more necessary was it, therefore, that the Act should be accepted by the Irish members as a settlement. But no attempt appears to have been made, as was the case before the first

\* Hansard, vol. 342, p. 1,705.

Ashbourne Act, to come to terms with the Irish members before the introduction of the Bill, or to obtain their assent to its details. Nor was effort made to modify the scheme, when passing through the House of Commons, so as to meet their wishes. It followed that the Irish representatives neither accepted the measure nor rejected it. They criticised in a hostile spirit all its details. They opposed with vigour many of its most important checks and securities, especially those impounding the local contributions from the Imperial Treasury, without the consent of local authorities or of the ratepayers in Ireland, as collateral security for the repayment of the sums borrowed. It is to be feared that this want of assent of those most concerned may have a serious effect in the future.

The measure appears to have owed its origin to various concurrent and independent motives, partly to the belief often expounded by its author, Mr. Balfour, that the system of dual ownership, established, or rather recognised and sanctioned, by the Act of 1881, was economically unsound, and that it was necessary to revert as quickly as possible to that of absolute ownership; in part to the block in the market for land in Ireland, and to the desire of many landlords to part with or to reduce their properties, especially in fear of the prospect of Home Rule; and in part also to the desire of the tenants to obtain the further reduction of their annual payments, such as would result from the use of English credit in the purchase of land at Irish prices. With respect to the first of these motives, it is difficult

to appreciate the force of the economic objections to dual ownership. The system certainly opposes no obstacle to the outlay of capital on the land, for the occupier's interest in this respect is absolutely secured in the future by the terms of the Act of 1881; it had also been practically at work in Ulster for two centuries, and accounted mainly for the better cultivation and the more peaceful state of that province, owing to the security it afforded to improvements. The system also of dual ownership, under the name of "emphyteusis," is widely spread in various parts of Europe, and is recognised as one well adapted to small occupiers, giving them protection for their improvements without requiring the large investment of capital involved in full ownership. In the larger farms the system may render it more difficult to deal with the land, by cutting it up into smaller ownerships, but this is rather an advantage than the reverse, in the case of small holdings. It must be recollected, also, that under the scheme of purchase through State credit, the system of dual ownership will continue to exist for forty-nine years, till the mortgage is paid off, with the difference only that the State and not the landlord is practically the co-owner with the occupier.

#### PROBABLE RESULTS OF ACT.

It is not, however, proposed to review all the arguments in favour of the measure or the objections raised to it. It is more important to consider its future effects. It was presented by Mr. Balfour to Parliament as a boon

of enormous magnitude to the Irish tenants: as one which, in that sense, is certain to be acted upon to its full extent before long. Throughout the whole of the long debates, also, in the House of Commons, he invariably argued, illustrated, and defended his measure on the assumption that the average terms, on which sales and purchases would be effected, would be between seventeen and eighteen years' purchase of the judicial rents of the holdings. At this rate the boon will unquestionably be very great to those tenants whose landlords are willing to avail themselves of the Act. These expectations, promises, and hopes held out by the author of the measure constitute an all but distinct promise to the Irish tenants, and if not realised, will raise a very serious demand for an amendment or extension of the Act, at no distant time.

So far, the Act, after being in operation for more than a year, has not had much practical effect. The applications under it have not exceeded the half of those during a similar period under the Ashbourne Acts. It is said that there are two main causes for this—the one, that the landlords do not like being compelled to take land stock, in payment for their land, instead of solid money, as under the previous Acts, being quite uncertain as to the value which the land stock may have in the market; and the other, that tenants have a great dislike of the provision, already described, known as the Tenants' Insurance Fund, under which, whatever may be the terms agreed upon, they are compelled to pay eighty per cent. of their previous rents for five years,



so that a great part of the benefit of the purchase at a low price is postponed for that period:

Of the benefit which will accrue to the tenants under the Act, as it stands, at the average price contemplated by Mr. Balfour, according to the experience of the past three or four years, there can be no doubt whatever. The provision as to the 'tenants' insurance may disguise and conceal the extent of the benefit for five years after the purchase, but this will only make the benefit still greater after this term is over, and it is difficult to believe that the bulk of the tenants in Ireland are not shrewd enough to understand this.

It is worth while to consider a few cases which have occurred, as illustrations of the benefit accruing from operations under the Purchase Acts:—

(1) A tenant farmer in the north of Ireland held a farm of 250 acres a few years ago at a rent of £229. In 1886 he applied to the Land Commissioners for a judicial rent. They fixed his rent at £160, a reduction of about thirty per cent. In 1889 he induced his landlord to sell under Lord Ashbourne's Act at nineteen years' purchase. He obtained an advance of £3,000 for this purpose, and his payments will be £120 for forty-nine years, as compared with £229, his rent three years previously—a reduction of nearly fifty per cent.

(2) A speculator in farms three years ago bought the tenants' interest in two farms in the north of Ireland—the one rented at £60, the other at £80. He gave £400 for the first of these, and £540 for the other. Having effected these purchases, he then induced the landlord

to sell these farms to him as tenant, and obtained advances from the Land Purchase Commission of £960 and £1,360 respectively, reducing his annual payments to £38 and £54. He then, without ever having been in occupation, sold the two farms again, subject to these payments to the Government, and he realised £970 and £1,280 for what he had bought at £400 and £540, making a net profit of £1,310 on the two transactions. This case shows how easily the boon conferred by the State can be realised in hard cash by the purchasing tenant.

(3) A large farm was subject to a rent-charge of £150 a year. The farm was a most valuable one, and the tenant had erected buildings upon it at a cost of £15,000. He agreed with the ground landlord to acquire the rent-charge at twenty years' purchase. The Land Commission advanced the whole of the purchase money—viz., £3,000. The purchaser has been able, therefore, to convert a permanent rent-charge of £150 a year into an annuity of £120 for forty-nine years.

(4) A farm of ninety-six acres in Cork was leased in 1876 for a very long term of years, at a rent of £150 a year. In 1883 the tenant sold the farm, subject to this rent, for £750. The new tenant applied quite recently to the Land Commission under the Redemption of Rent Act. The Land Commissioners held the letting value of the farm to be £125 a year, and the selling value £2,200, and allowed an advance of this amount under the Land Purchase Act. The occupier of the farm under this arrangement will have to pay to the State £88, as

compared with his previous rent of £150, subject to which he gave £750 for the farm. His interest is now increased in value by £1,200, which may be regarded as a gift from the State.

(5) The tenants of the Cloghaleigh estate in Tipperary combined together in 1881 to refuse payment of rent unless a reasonable abatement were made. Their landlord declined any concession, and ultimately made a clean sweep of his property by evictions. The tenants were housed by the Land League in temporary buildings, near to their former holdings, where they resided for over ten years in confident expectation of being reinstated. The landlord let the whole property to the Land Corporation, who in vain tried to make a profit out of it. In 1892, the property having come under the control of the Landed Estate Court, an agreement was finally arrived at, and sanctioned, under the 13th clause of the Land Purchase Act of 1891, for the reinstatement of the evicted men as purchasers, at  $12\frac{1}{4}$  years' purchase of their former rents, all arrears being wiped out. After five years the annual payments of these purchasers will be reduced by more than 50 per cent. as compared with their old rents! Many other cases have occurred where properties have been sold to the tenants at twelve, thirteen, and fourteen years' purchase of the former rents.

In view of these cases, which might be multiplied indefinitely, it cannot be doubted, that even where purchases can be effected at the rates contemplated by Mr. Balfour—namely, seventeen or eighteen years'

purchase of the rent—an enormous boon is conferred on the occupying purchaser, and even more so when the terms of purchase are lower.

In the case of leasehold house property sold in England, it is found that where there are fifty years unexpired of the lease, there is a very small difference between its price in the market and that of a perpetuity lease at the same rent; but that as the length of the lease shortens the market price rapidly decreases in value. Fifty years are a long time to look forward to, and the reversion after such a term is worth very little. It can scarcely be doubted that the same view holds good in Ireland. What the tenants appreciate and desire is, not so much that their farms shall be free of charge after fifty years' payment of the interest and instalments—for they no more look forward so long ahead than do the leaseholders in England—but the immediate reduction of their annual payments, which is equivalent to an abatement of rent.

On the other hand, it is not so easy to see the advantage which landlords generally will derive from the sale of their property, at the estimated rates. A large proportion of the Irish landlords are heavily encumbered with mortgages and family charges, and live upon the slender margin, which remains after paying these charges. After a sale of their property at seventeen or eighteen years' purchase of the rent, it is certain that in the great majority of cases there will be no margin at all remaining for the owners. Even in the case of the unencumbered owners, where the estates are subject

to family settlements, and where the proceeds of the sale must remain in the Land Stock, the loss of income, at seventeen years' purchase, will be more than 50 per cent. Those landowners who have hitherto sold have generally been those with a very large stake in land, who have been anxious to reduce it, or those who, being unencumbered and not subject to settlements, have been willing to clear out of the country, in fear of further legislation.

If, therefore, through the unwillingness of landlords to sell under the new Land Purchase Act, or from impediments created by the Act as compared with the Ashbourne Acts, there should be very few transactions under it, there will be profound disappointment among the tenants of Ireland; and there will arise a universal demand for an amendment of its provisions, founded on Mr. Balfour's statement that his measure was intended as a great boon; and this appeal will be quite as strong from Ulster as from the rest of Ireland. It will be very difficult to resist this claim by any valid arguments.

On the other hand, it may be that the impediments or difficulties in the way of the working of the Act will prove to be of a temporary character, that in a short time the transactions under it will greatly increase in number, and that before long the £33,000,000, to be advanced under it, will be exhausted, so that tenancies to this amount in value will be converted into ownerships at or about the number of years' purchase, which formed the basis of Mr. Balfour's statements and promises. It will be worth while to consider what will be the position



of the agrarian question in Ireland if this should be the case, and how far the Act can be expected to be a final settlement.

The position will then be this—that about one-third of the land in Ireland, which can come under the operation of the Act, will have been dealt with. Scattered all over Ireland there will be a privileged class of occupying owners, consisting of the tenants of one out of every three estates, whose owners have consented to sell to their tenants under the Act, and who have been converted into owners, upon terms, the average of which will involve the payment of thirty-two per cent. less than their previous rent. In some cases where the landlords may have sold on more favourable terms—say at fifteen, fourteen, or even twelve years' purchase of the rent—the comparison between the occupying owners, and those who still remain as tenants, will be still more favourable to the former; their payments will be forty to fifty per cent. less than their previous rents. It is true that under the provisions of the last Act the full benefit of this will not appear for five years—that in the meantime these purchasing tenants must pay up to eighty per cent. of their previous rent; but this is a mere blind. It may conceal for a time the true comparison, but when the five years are over, this will become all the more apparent. Is it possible to conceive that this inequality in condition between the two classes of occupiers—namely, the two-thirds of them paying their old rents for ever, and one-third of them paying, on the average, thirty-two per cent. less than their previous rent for a

term of years only—can be a stable condition of things, and one which can be a permanent settlement and give content in Ireland? On one side of a road there will be occupiers of land, whose landlords have consented to sell on such terms, enjoying this very great reduction; on the other side will be tenants, whose landlords have refused to sell, so as to enable their tenants to avail themselves of such splendid terms, and who will be paying their old rents. How can we expect the latter, who will still constitute two-thirds of the tenantry of Ireland, to be content when their more fortunate brethren are so highly favoured? It will be no answer to them that the funds are exhausted, and that there can be no more advances from the State.

A further inequality between these two classes will appear whenever there is a year of great agricultural loss—when the potato crop is blighted, as happens every sixth or seventh year. The privileged occupiers, whose annual payments are so greatly reduced, will find under the provisions of the Act of 1891 a special clause to give them relief. But those remaining as tenants, under much higher rents, may be compelled to pay in full, or be subject to eviction, and will have no protection from the law. How can such inequalities be justified? There must arise either a demand for the universal and compulsory conversion of the tenants into owners, upon the average terms conceded to the fortunate purchasers by their landlords, or for an equivalent reduction of rent. If the finances of the State forbid the advance of more funds for the scheme of compulsory

purchase, then there will be the stronger argument for the legislative reduction of judicial rents, so as to correct the inequality of conditions, and to fix rents at the point corresponding to that which the fortunate minority have been able to obtain through the operation of the Purchase Act.

Already these views are beginning to spread in districts where some fortunate tenants have been able to avail themselves of the Ashbourne Acts by the sale of their holdings by the landlords on the terms already referred to. In an article on this subject in the *Nineteenth Century*,\* Mr. T. W. Russell, M.P., thus describes the effects of a large transaction of this kind in the County of Tyrone :—

“In my constituency,” he says, “a large estate has recently passed from owner to occupiers. The transaction has meant a reduction of 30 per cent. on the judicial rents, and a terminable annuity takes the place of an annual rent. The result is that every tenant in South Tyrone is discontented, and compulsory sale is demanded in every fair and market. The larger the transfer, the greater the benefit, the more will the feeling spread. It will be impossible to maintain that the tenants on the badly-managed estates should get an advantage denied to those who live on estates where owners have not been ruined. It will be impossible to say that the dishonest tenant in the south, whose conduct has made his landlord glad to sell, shall have a boon denied to the honest man who has paid his rent, and whose landlord has not any motive to part with his property. Every estate that is sold makes the position more untenable.”

In the same sense, Mr. T. W. Russell, commenting on the Bill of 1890 with unanswerable logic, said :—

\* *The Nineteenth Century Review*, October, 1890.

“The measure will introduce a new standard of rent. No Irish tenant will consent to pay more for the hire of the land than some of his neighbours are paying for its purchase. . . . The present fair rents which have been judicially fixed will appear so unfair, that a new agitation will spring up, and such a pressure will be brought to bear upon landlords that they will have practically no chance but to sell. One result will be that it will be impossible to stop lending when the limit of thirty millions has been reached ; and it is well that Parliament should understand that once it is committed to the principle of land purchase on a large scale, there will be no stopping until the great bulk of Irish landlords are expropriated.”

The landlords, as a class, are also beginning to understand this, and to appreciate the prospects which are before them, if many of their order consent to sell upon such terms as those already agreed to. Among them the opinion is growing that any one of them who sells to his tenants at a low rate is acting in opposition to the interests of his class. In a recent case, a lady who owns property in the west of Ireland commenced negotiations with her tenants, and was on the point of coming to terms with them for the sale to them of their holdings at fifteen years' purchase of their rents—terms which would have secured a reduction to them in their annual payments of 40 per cent. When the neighbouring landowners heard of this intention, they sent a deputation to this lady, urging her not to sell to the tenants at such a price, and pointing out that if she did so, it would be impossible for them to maintain their existing rents. At their instance she withdrew from the negotiation, and has since endeavoured to persuade

one of the adjoining landlords to buy her property. The tenants, on their part, have lost the enormous advantage they would have gained if the transaction had been completed. It is believed that the feeling which prompted this action on the part of the neighbouring landlords is spreading through Ireland, and is one of the causes of the reduced number of yearly sales under the Land Purchase Acts. Those who have sold have been described by another landlord as "men who have been frightened enough, or who are rich or careless enough, to be willing to part with their property at a fraction of its holding value," and "belonging to a small minority of landlords who are in a position to part with their properties at the prices at which most of the sales have hitherto been arranged."

As regards the tenants, the difficulty was fully presented to Lord Salisbury's Government in the autumn of 1890 by a deputation of tenant farmers from Ulster to the Irish Secretary. They pointed out that already great discontent was arising in Ulster from the comparison between those tenants, who had obtained the boon offered by the Ashbourne Act, and their less fortunate neighbours continuing under old rents, and that this difference would render the present position impossible. "We look forward," they said, "with apprehension to the future spread of discontent and agitation in the country. . . . Landlords whose relations with their tenants are satisfactory, and who regard their rents as well secured by substantial tenants, are not likely to make such terms as tenants will consider themselves



safe in accepting, and so occupying ownership has no chance of being adopted exactly where the conditions are most favourable to its success. We submit that no permissive scheme can ever cover the ground, inasmuch as it must be slow and uncertain in its results."

One of the strangest anomalies resulting from the Land Purchase Acts arises in the following manner. The Purchase Commissioners, in very numerous cases, have refused to give their sanction to sales between landlords and bodies of tenants, on the ground that the terms agreed to have been too high, and that there is not sufficient security for the money to be advanced by the State. These refusals have almost always been in the case of very small holdings in the west and south of Ireland, and often where the rates of purchase were no more than fourteen to sixteen times the judicial rent. At fifteen years' purchase, the annual payments to the State would be forty per cent. less than the previous rent. On the refusal of the Land Commissioners to sanction such sales, these tenants fall back into their position of having to pay their old rents for ever, when their more fortunate neighbours have perhaps been able to buy their holdings and reduce their annual payments by thirty or forty per cent. How can such inequalities be maintained? How can the eviction of the former class, for non-payment of such rents in times of depression and loss, be justified and supported?

It has happened not unfrequently that a conflict has arisen between the Land Purchase Commissioners and

the judges of the Land Court in respect of properties under the control of the latter. The tenants have agreed with their landlords or the mortgagees to buy their holdings at a certain price; the Land Purchase Commissioners have then objected to make the advance, on the ground that the terms are too high. To meet these views, the parties have then agreed to lower terms, but the judges of the Land Court have refused to sanction the sale, in the interest of other creditors, differing in their view, as to what should be the selling price, from the Purchase Commissioners. In such cases the tenants lose the advantages of the Act, and remain under the obligation to pay their old rents for ever.

There appear, indeed, to be at this moment three independent tribunals in Ireland, with power to determine the value of land, who may differ from one another—the Land Commissioners, who determine the judicial rent after a survey of the land by their officers; the Purchase Commissioners, who have to determine at what number of years' purchase it is safe for the State to make an advance for the sale to the tenants; and the judges of the Land Court, who can determine at what price the land may be sold on the petition of mortgagees or creditors. Each of these tribunals takes the opinion of separate surveyors, who may differ widely from the others in their opinion as to the value of the property.

In the recent General Election, the symptoms of a general political movement in Ireland, for the compulsory sale of landlords' interests to the tenants, began to

show themselves in an acute form even in the province of Ulster. The Unionist candidates for agricultural constituencies, in that part of Ireland, found themselves compelled to give in to the popular demand on this point. Mr. T. W. Russell, who had opposed the proposal in this direction in the discussions on the Land Purchase Bill, announced himself as relieved from any pledges on this head, and promised the electors of Tyrone to support a compulsory measure of land purchase. Other prominent candidates in Ulster followed suit.

On the other hand, there are not wanting signs that in some cases landlords, of the worst class, have put pressure of an unfair character upon their tenants, to induce them to buy their holdings, at extravagant rates, and on terms, which they may hereafter be unable to fulfil as regards the State.

The late Mr. J. G. McCarthy, one of the Land Purchase Commissioners, gave evidence on this point before Lord Cowper's Commission and spoke of the pressure brought to bear upon tenants by landlords anxious to sell. When asked how they exercise such pressure, he replied: "By telling the tenant he must either sign a contract for sale or go out. I have seen letters of this kind. I have a letter in my possession from an extensive land agent, telling the tenant that the sheriff would not be put off beyond the morrow, but that if he handed the sheriff the contract for purchase duly executed, he would give possession."

Several memorials have been presented to the Land

Commissioners from bodies of tenants, asking for abatements of the interest and instalments payable by them, and complaining that they only agreed to the terms of purchase under threat of eviction.

The conclusion, then, which results from a careful consideration of the Land Purchase Act of 1891, is that it cannot be expected to be a final settlement of the land question of Ireland; that, whatever may be its immediate result, it opens out a vista of fresh demands, and that it has unsettled rather than settled the question. If, as there seems reason to expect, the transactions under it should be few in number—either because landlords object to the Land Stock, or because the tenants object to the provisions as to the Tenants' Insurance Fund; or if the Act should fail from an unwillingness on the part of landlords to sell on the terms which formed the basis of all Mr. Balfour's expositions of its policy—it will be difficult for those who have to deal with the question to resist the claim of the tenants for further legislation. If, on the other hand, the Act should succeed, and sales of holdings to tenants become very numerous on the terms expected, it is equally certain that a demand will arise in Ireland which it will be difficult to meet with any satisfactory answer. It will be claimed that the scheme of purchase shall be made compulsory and obligatory on all landlords, on the ground that it is unjust that a boon of so great a character should be conferred on some tenants and denied to others, according to the whim, profit, or necessities of their landlords; and that equality of

treatment for all tenants is essentially necessary and just.

If it should be replied to such a demand that the £33,000,000, already provided for, exhausts all the security, which on the principle of the Act of 1891 is an essential condition of the use of Imperial credit, the alternative course, of reducing the judicial rents in proportion to the instalments of the purchasers, will probably be proposed.

In this view the Land Purchase Act of 1891 has left the land system of Ireland in a position of unstable equilibrium. It has effected no permanent solution of the agrarian question, and must lead to future difficulties of a most serious character.

It may be well here to point out that under the Land Acts, according to the last report of the Commissioners, judicial rents have been fixed, either by decisions of the Court after hearing both parties, or by confirmation of private agreements between landlords and tenants, in 277,000 cases. Rents originally amounting to £5,739,000 have been reduced to £4,548,000: an average reduction of 20·7 per cent. There were 24,500 cases still waiting decision before the Commissioners, and 4,300 in the Civil Bill Courts. The number of decisions is not the full measure of the working of this Act; for in many cases reductions of rent may have been made as a consequence of the Act, and without confirmation by the Commission. Fixity of tenure and the right of free sale are secured to every tenant of land within the purview of the Act, whether he applies to



the Court for a judicial rent or not. Considerable as the enforced reductions of rent by the Land Commission have been in Ireland, it may be doubted whether the landlords there have had to submit to the same losses and sacrifices as the English landlords have experienced during the same period.

## CHAPTER VII.

### FURTHER REMEDIAL MEASURES IN IRELAND.

#### LEGISLATION FOR LANDLORDS.

THE Land Acts of 1870, 1881, and 1887, and the Land Purchase Act of 1891, by no means exhaust the efforts of Parliament on behalf of the various classes of which the social system in rural districts of Ireland is composed. Imperial funds have been brought in aid for the improvement of their condition to a degree far beyond what has been attempted for England and Scotland.

#### (1) AS REGARDS LANDOWNERS.

The Board of Works of Ireland, which is, in fact, a branch of the Imperial Treasury, is empowered by various Acts—the 10 Vic. c. 32, 13 and 14 Vic. c. 19, 23 Vic. c. 19, and 29 and 30 Vic. c. 40—to make advances to landowners for such objects as drainage, the erection of farm-houses and of dwellings for agricultural labourers, and the planting of trees for shelter. The loans are made on favourable terms as regards interest, and are repayable in varying terms of years. The payments take precedence of other charges on the properties. Under these Acts, considerable sums have been advanced to landowners, by way of loans, during

the last forty years, amounting in the aggregate to about £5,000,000. The transactions, however, for the last few years have been limited. In 1891-2, 135 loans, to the amount of £30,500 only, were granted, of which twenty were for drainage, ninety-three for farm buildings, and ten for labourers' cottages.

## (2) EXTINCTION OF TITHE RENT-CHARGE.

By the Irish Church Disestablishment Act of 1869, another boon has been conferred on Irish landowners, through the aid of Imperial credit, which has not been extended to England—namely, the extinction of the tithe rent-charge in a certain number of years. By a clause of this Act there is a permissive sale to the landowners of Ireland of the tithe rent-charge, at a rate which yields them four and a-half per cent. On the other hand, they are credited with a loan at three and a-half per cent., repayable by instalments in forty-five years. The effect of the two provisions is that the tithe rent-charge, payable before 1869, is continued at the same rate for forty-five years, and at the end of that period will be extinguished. In the interval, one per cent. of the estimated capital value of the tithe—the difference between the four and a-half per cent. at which the landlords are supposed to buy the charge and the three and a-half per cent. at which they have been credited with a loan from the State—is accumulated by the Irish Church Temporalities Commission, and at the end of that period will produce a sum equal to the capital value

of the tithe, and will then meet the claims, which have been imposed on the funds of the Irish Church.

The scheme is a good illustration of, and not impossibly a precedent for other uses of State credit for the extinction of burthensome charges. As twenty-three out of the forty-five years contemplated by the Act have already expired, the time is not far distant, when the Irish landowners, who have availed themselves of this option, will be altogether relieved of the tithe.

### (3) LOCAL REGISTRATION OF TITLES.

Another important Act affecting ownerships of land has been passed for Ireland, but is still wanting in England—namely, that carried in 1891 for the establishment of local registries of titles.\* It is founded on Lord Cairns' system for registration of titles, but is to be carried out locally by the officers of the various counties in Ireland. Under this Act, registration of titles is still permissive in the case of ordinary properties, but is obligatory in the case of holdings sold under the Land Purchase Act. By the fourth part of the Act another important change of the law is effected in respect of holdings sold to tenants under the Land Purchase Acts. It provides that any such land, on the death of its owner, shall vest in his personal representatives as if it were a chattel real, and that, on the death of the owner intestate, the land shall devolve upon, and be divisible among, the same persons as if it were personal estate. The effect of this is to abrogate the law of

\* 54 and 55 Vict., c. 66.

*primogeniture*, not only in respect of all land, hereafter to be sold under the Purchase Acts, but in respect of any land sold in the past under these Acts, and to apply to it the same law of equal division among the children or next-of-kin, as applies to personalty. There will be, henceforward, the curious anomaly in Ireland, that all land, which has been at any time sold to tenants under the Land Purchase Acts, will be subject to one law of inheritance, and all other land to another law. It cannot be doubted that this is a first step towards abolishing altogether the general law of the descent of land.

## LEGISLATION FOR TENANTS.

### (1) ADVANCES TO TENANTS.

The Land Act of 1881 (Sec. 31) gave power to the Board of Works to make advances to tenants for the improvement of their holdings. The Board have made a considerable number of such advances. They have recently reduced the minimum amount which they will lend under the Act. The total sum which has been advanced for this purpose has been £872,767 in 10,203 separate transactions—averaging, therefore, not more than £85 each.

### (2) COTTIER TENANTS.

It has already been pointed out that there are districts in Ireland, where the population is congested, in the sense that communities exist of cottier tenants, with very small holdings, which are quite inadequate to afford support out of the land. These are the heritages from times of



confiscation, and of consolidation of farms on the better lands, carried out without regard to the interests of the people, and by which vast numbers of tenants were driven to inferior lands. The Legislature has recognised the evil and has made amends for past injustice. Not the least important part of the Land Purchase Act of 1891 was that relating to these congested districts. Under its provisions a Special Board was constituted in Ireland, called the Congested Districts Board, of which the Chief Secretary to the Lord-Lieutenant, and all members of the Land Commission, are *ex officio* members, together with five other unpaid members nominated by the Lord-Lieutenant. The Chief Secretary, or, in his absence, the Under-Secretary to the Lord-Lieutenant, acts as Chairman of the Board. This Board has extraordinary powers of administration in respect of districts, which are defined as congested districts—namely, those electoral divisions of counties, where the rateable value, when divided by the number of population, gives a sum of less than £1 10s. for each individual. The Board is endowed with funds, consisting of £1,500,000, charged upon the surplus fund of the Irish Church Temporalities Commission, or rather with the interest of such fund at the rate of  $2\frac{3}{4}$  per cent.—amounting, therefore, to rather over £40,000 a year—and of two comparatively small Irish Funds, the Irish Reproduction Loan Fund and the Sea and Coast Fisheries Fund. The interest of the Church Surplus Fund is to form part of the guarantee fund under the Land Purchase Act, but subject to this, the Board may utilise it for the purpose of its work.

The Commission is empowered out of these funds to give special aid to the migration or emigration of any occupier of a holding within any congested district, with his family, and to settling such migrant or emigrant, under favourable circumstances, in any place to which he first migrates or emigrates, on condition that he transfers his interest in his holding to an occupier of a neighbouring holding, and that the holdings be amalgamated, or that he transfer such interest to the Land Commission. In other words, the Commissioners are empowered to facilitate the consolidation of the very small holdings, by giving aid to the migration or emigration of their occupiers, subject to the condition that no holding is to be increased by amalgamation so that the rateable value shall exceed £20. The Commission is also entrusted with wide powers, in concert with the Land Commission, to facilitate such amalgamation by the apportionment of the purchase annuities, or by a sale to a tenant, or by making an advance towards the purchase of an interest in a holding. It is provided that no small holding, thus dealt with, is to be sold during the continuance of the purchase annuity, except to the occupier of a holding in its neighbourhood or to the Land Commission.

The Board is further empowered to aid in providing suitable seed potatoes, and seed oats, for sale to occupiers, in developing agriculture, forestry, the breeding of live stock and poultry, weaving, spinning, fishing (including the construction of piers and harbours, and the supply of fishing-boats and gear, and industries

connected with and subservient to fishing), and any other suitable industries; for such purpose the Land Commission is empowered to acquire land, by purchase or lease, and to place such land under the management of the Congested District Board.

It will be seen how varied and extensive are the powers of this Board. The most important of them, from an agrarian point of view, is that enabling the Board, in concert with the Land Commission, to buy or lease land, for the purpose of adding to the holdings of occupiers in congested districts, and of facilitating migration of tenants to holdings, where they can support themselves and their families. This points to the purchase of grazing farms from which the tenants have been driven in past times, and the re-settlement on them of tenants drawn from the congested districts.

It is too early as yet to form an opinion as to the working of this new Board, and as to their administration of the important and difficult duties imposed on them. It appears, however, that so far no case has occurred in which the Board have been able to effect the purchase of land, so as to relieve the congestion by adding to the holdings, or by migrating the occupiers to larger farms, and effecting the consolidation of those that remain. The work of the Commission, hitherto, has been mainly directed to the encouragement of the breeding of cattle and to the promotion of fisheries. It appears that 391 electoral districts in seven counties—including Donegal, Roscommon, Sligo, Galway, Mayo, Kilkenny, and Cork—with an area of 3,411,000 acres and a

population of 544,000, have been declared to be congested districts within the letter of the Act.

#### LEGISLATION FOR LABOURERS.

It has already been pointed out that, of the various classes in Ireland, the agricultural labourers are relatively in the lowest and worst condition.

The first effort to ameliorate their condition was contained in the Irish Land Act of 1881. Under the 19th clause of this Act, the Land Commissioners were authorised to make it a condition of their award for a judicial rent, that the tenant should erect one or more cottages for his labourers, and should let them with adequate gardens. The Board of Works were also empowered to issue loans on favourable terms for facilitating this object of the Act. It cannot be said that this provision has been productive of any substantial benefit to the class of labourers, save so far as it has admitted a principle which may hereafter be capable of extension. In the eleven years that have passed since the Land Act became law, only 255 loans have been issued by the Board of Works, under this provision for the erection of labourers' cottages, involving a total outlay of £14,876, giving an average of about £58 per cottage.

More effective have been the subsequent efforts of Parliament. In 1883 an Act\* was passed providing that where the existing house accommodation for agricultural

\* 46 and 47 Vict., c. 60.

labourers is deficient, having regard to the ordinary requirements of the district, or is unfit for human habitation, owing to dilapidations, the want of light and ventilation, or proper conveniences, or to any other sanitary defects, and where such defects cannot be remedied otherwise than by a scheme for the erection of dwellings in lieu of or in addition to the dwellings already existing, the Sanitary Authority shall, upon the requisition of twelve ratepayers, take action, and, if satisfied as to the necessity, shall pass a resolution in favour of an improvement scheme. The scheme is to propose the erection of a sufficient number of labourers' cottages, so as to provide for the accommodation of the labouring class in suitable dwellings, and with proper sanitary arrangements, and each cottage is to have a plot of land or garden, not exceeding half an acre. The scheme may provide for its being carried out by the person entitled to the first estate of freehold in any property, or with the concurrence of such person, under the superintendence and control of the Sanitary Authority.

If difficulty is encountered in acquiring land by agreement for the purpose, there is power to obtain it by compulsion. In such case, however, the scheme must be confirmed by the Irish Privy Council, and, if opposed, by Parliament; and in all cases, it is directed that the land shall be selected with due regard to the convenience of landowners, so as to diminish the value of their interest as little as possible. The Treasury is empowered to lend money to the Sanitary Authority for the purposes, repayable by instalments spread over a term



of fifty years at £4 9s. per cent. If the Sanitary Authority neglects to act upon the representations of rate-payers, it must report to the Local Government Board, who may, if they think necessary, direct a local inquiry. Finally, the Sanitary Authority is prohibited letting such cottages to any but agricultural labourers, and in these cases, not for a longer term than from month to month. The maximum for which the rates of a district can be charged under the Act is 1s. in the £.

In 1885 it was found necessary to amend this Act in a number of details. By the amending statute,\* limited owners are allowed to lease land for the purpose of the erection of cottages by Local Authorities for ninety-nine years. Local Authorities are empowered to take land on lease by compulsion, and it is provided that the loss, injury, or damage sustained by any owner or occupier of land taken for a term of years shall, as far as possible, be compensated for by the annual rent to be paid to the owner. Local Authorities are also authorised to purchase or hire and put into repair any cottages which are in a bad state, and to purchase and allot half an acre of land to each of them.

It appears from the most recent returns that ninety-one Unions in Ireland have availed themselves of the facilities afforded by these Acts, and have promoted schemes for the erection of labourers' cottages under them. Their applications involved the erection of 24,515 cottages, of which 11,871 have been authorised, and 1,852 are still under consideration. Loans have

\* 48 and 49 Vict., c. 77.

been sanctioned by the Treasury to the amount of £1,254,475. Further schemes are in a state to be submitted to the Board of Works, involving the erection of 2,998 more cottages, at a cost of £374,284. Of those already authorised, 8,955 have been erected, and 8,823 actually let to labourers. The rent obtained from them varies from 8d. to 1s. per week. At these rates, the loss to the Unions in the difference between the interest and instalments payable to the Treasury, and the rent payable by the tenants, is very heavy. The rents collected do not pay more than one-third of the annual charge. It would appear, however, that the Local Authorities are willing to bear this cost, and that the Local Government Board have to exercise their restraining power to prevent the excessive use of the Act. They have refused their assent to applications for the erection of as many as 10,792 cottages. Very few Boards of Guardians in the two provinces of Ulster and Connaught have availed themselves of the Act. Of the 11,871 cottages already authorised, only seventy-eight are in Ulster and eighty-seven in Connaught. The average cost per cottage is a little over £100.

The annual charge to the Local Authorities in respect of the amount already borrowed from the State under the Act is £55,928, of which one-half falls yearly on the rates, "even if the rents are paid up in full," or if no repairs are required within the year. It appears that in almost every scheme compulsory powers have been inserted, and that it is very rare for a local authority to obtain land by agreement. This must add considerably

to the cost of carrying out the schemes. A large number of proposals have been rejected by the Local Government Board on the ground of non-compliance with the requirements of the Act—such as where the land proposed to be taken is part of a demesne land, or home farm, or is not adjoining a public road, or is unsuitable for cultivation, or is too far distant from a water supply. It will be seen how far more stringent and effective these Acts have been in Ireland than those in England.

It has already been pointed out that the Land Purchase Act of 1891 provides that out of the £4 a-year payable by the tenant-purchasers for forty-nine years, in respect of every £100 advanced to them, for the purchase of their holdings, 5s. per cent. (called the county percentage) is to be paid to the guarantee fund, and that so much of it as may not be required is to be paid out of that fund to the “Local Taxation (Ireland) Account,” and to be applied towards the cost of providing labourers’ cottages, under the Acts of 1883 and 1885, already referred to. There is a further provision (sec. 21) that in respect of cottages thus erected, the requirement of the Act of 1883, that every cottage shall be provided with a plot or garden, not exceeding half an acre, shall not apply; and that such cottages may be provided with or without such plot or garden—an enactment which evidently points to the erection of labourers’ cottages in towns as well as in rural districts. On the assumption that the whole of the £33,000,000 is advanced, this

provision will supply an annual fund for forty-nine years of £82,000, for the assistance of local authorities in the erection of cottages. This, at the average rate of the cost of houses built under the Labourers' Act, will suffice for the erection of about 800 cottages a year.

#### CONCLUSIONS AS TO IRISH AGRARIAN LEGISLATION.

From the review of legislation for Ireland during the last twenty years, it will be seen how varied and comprehensive have been the efforts of the Imperial Parliament to reform its agrarian condition, and to what an extent Imperial credit has been resorted to in dealing with the subject. It can scarcely fail to strike an impartial critic that the experience of this period has shown that it is better to take the opinion of the majority of the Irish members upon matters which so vitally concern the interests of the people they represent, than to deal with them with the imperfect knowledge and sympathy which the majority of English and Scotch members must have. The period affords also abundant proof that Parliament, after refusing the demands of the Irish representatives, has been forced on, step by step, now by agitation and disorder in Ireland, now by the necessities of political combinations, now as a matter of bargain, to do that which it had previously rejected, and to concede with a bad grace what it had denied to constitutional demands. There is little which the majority of the Irish members have asked for which they have not ultimately obtained, and when the Ulster members have

joined in the demand, with those from other parts of Ireland, the united pressure has soon become irresistible. The moral is that the Irish understand their affairs better than Englishmen can do. It need not be added, however, that this argument does not apply with equal force to questions, where loans on Imperial credit are involved. These are not purely Irish questions. They affect still more the taxpayers of England and Scotland, who must rightly claim a potent voice in the use of their credit.

Another conclusion forced upon us is that when the concession was made to the Irish tenants of fixity of tenure and judicial rents, which put them into a position of co-owners with their landlords, and created a system of dual ownership of land, it was necessary to work out this new relation to all its logical conclusions. Much difficulty and confusion have arisen from the continued use of the terms landlord and tenant. Since the Act of 1881 the occupiers of land in Ireland have no longer been tenants in the English sense of the term, and their co-owners have no longer been entitled to the rights of landlords, as understood in England. This recognition of equality in the position of the two classes in Ireland has necessitated equal treatment in a variety of questions that have arisen and will arise. It is because English and Scotch members and writers have so frequently failed to bear this in mind, that many of the difficulties of the last few years have sprung up. Even statesmen of the highest eminence have, within short intervals, if not in the same speeches, condemned



the Land Act of 1881, for confiscating the rights of landlords, by elevating the tenants to the position of dual owners, and have denounced the tenants for combining together to break their contracts, unmindful of the fact that the Legislature, with general consent, had solemnly determined that the Irish occupiers do not hold by contract, but by tenure.

It is only by bearing in mind this essential difference, that a solution can be found for the agrarian questions of Ireland, in whatever phase they may present themselves in the future.

## CHAPTER VIII.

### AGRARIAN QUESTIONS IN SCOTLAND.

THE agrarian condition of Scotland partakes partly of the English, partly of the Irish system. In its Lowland counties generally, the system of large ownerships of land and large farms prevails, even more exclusively than in England. Small ownerships, where the owners occupy and farm the land as a means of living, can hardly be said to exist. South of the Tay, and in some districts north of that river, there are practically few small farms. In some of the Lowland districts north of the Tay, as in parts of Aberdeenshire and Forfarshire, there are many small farms of from 20 to 100 acres, where the tenants work with their own hands, and are not employers of labour. These, however, are the exception. As a rule, under the agricultural system in the Lowlands of Scotland, whether north or south of the Tay, the separation of the three classes of landlords, farmers, and labourers is very distinct and complete.

There is this difference, however, as compared with England: the farms, as a rule, are not held under yearly tenancies, but are let on leases for nineteen years. On the termination of these leases the farms are relet.

There is no obligation on the part of the landowner to relet the farm to its late occupant. There is not, therefore, that permanence of occupation by the same tenants and their families, which is to be noted on some of the great settled estates in England. As a rule, the cottages in the Lowland districts, in the case of large farms, are held direct by the labourers from the tenant farmers. There is general complaint of the insufficiency of cottages. The unmarried labourers, male and female, either board in the farmer's house, in a manner which often leaves much to be desired, as regards decency and morality, or the young men live and board together in bothies, where the refinements of life are often conspicuously absent. The postponement of marriage, until some cottage is vacant, leads to much evil, and is the cause, probably, of the high percentage of illegitimate births. Nowhere is there a greater gulf between the labourer and the tenant farmer, or a more total impossibility of the labourer rising to the higher position, than in the best cultivated parts of Scotland, such as the Lothians. On the other hand, the wages of the labourers are much higher than in most parts of England; but they are not often eked out by good gardens or allotments.

Another point of difference has relation to the uncultivated and waste lands. The manorial system of England not having been extended to Scotland, these lands are by law the property of their owners, and there are no rights of turning out cattle on them appurtenant to adjoining cultivated land, the property of others. Where tenants of farms enjoy the privilege of turning

out their sheep or cattle on the moor or waste land, it is by leave and licence of the owner, or it may be by conditions of their leases; but the owner has it in his power, subject to any such leases, to make what use he thinks fit of the uncultivated land.

#### THE CROFTERS.

In many Highland districts the agrarian system is very different. Till the rebellion of 1745 the Clan system prevailed there. The working members of the Clan had in olden times reclaimed the better land in the valleys, and cultivated it in small holdings or crofts, and had erected thereon their dwellings. They turned out their cattle on the mountains—a privilege indispensable to their well-being in their small holdings. They held by a very undefined tenure, under which an hereditary right to their holdings was recognised by the paramount Lord or Chief of the Clan, and they were secure from evictions so long as they paid their customary rents. After the rebellion of 1745 the English law of landownership was introduced, in supersession of the customs and traditions of the tribal system. The Chief of the Clan was invested with the full rights of a landowner over crofts and mountains, instead of being treated as the lord of a manor, after the fashion of feudal times. With these powers, the Highland chiefs before long began to consolidate holdings and to clear their estates of their dependents.

At the beginning of the present century the intro-

duction of sheep farming greatly hastened this process. The great landowners, being under no obligation at law to recognise the interest of their tenants in the turning out cattle on the mountains, deprived them of this privilege for the purpose of letting the mountain land in great sheep farms. The crofts in such cases lost a great part of their value. They could no longer be cultivated to advantage. The crofters in the interior of the country, and at a distance from the sea, were compelled to emigrate *en masse*, or were moved by their landlords to other lands near to the coast, where similar crofts were conceded to them, and where they could supplement their means of living by fishing, or collecting and burning seaweed for kelp, which for a time was a very profitable business.

After the recent investigations of the Commissioners appointed under the Crofters' Act, it must be admitted that the crofters, as a rule, had been cruelly rack-rented. Subdivision reduced the size of their holdings; the mountain land conceded to them for turning out cattle was insufficient; the kelp industry came to an end in consequence of other inventions; the condition of the crofters consequently deteriorated. It is thus graphically described in the report of the Royal Commission in 1884:—

“The crofter of the present time has, through past evictions, been confined within narrow limits, sometimes on inferior and exhausted soil. He is subject to arbitrary augmentations of rent. He is without security of tenure, and has only recently received the concession of compensation for improvements” (not,



however, for any buildings he may have erected). "His habitation is usually of a character which would almost imply physical and moral degradation in the eyes of those who do not know how much decency, courtesy, virtue, and even mental refinement, survive amid the surroundings of a Highland hovel. The crofter belongs to that class of tenants who have received the smallest share of proprietary favour or benefaction, and who are, by virtue of power, position, or covenants, least protected against inconsiderate treatment.

"The opinion so often expressed before us that the small tenantry of the Highlands have an inherited inalienable title to security of tenure in their possessions, while rent and service are duly rendered, is an impression indigenous to the country, though it has never been sanctioned by legal recognition, and has long been repudiated by the action of the proprietors.

"The processes by which the comminution of crofters' holdings and the displacement of the people were effected are too familiar to require detailed description. The reduction or withdrawal of common pasture, the diminution of arable ground, the obliteration of townships, and the transfer of the inhabitants to the moor, the shore, or the cultivated area of other communities, were the methods by which a revolution in the rural economy of the country was effected.

"Eviction and repartition have done their lamented work, and passed away for ever. The interest, prudence, and sentiments of the proprietors are alike enlisted for other views and purposes; but the dangers of subdivision are perpetuated by the tenacity of tenant, who too often settles his offspring on the impoverished holdings, in defiance of estate regulations and the dictates of self-preservation." \*

In most parts of the Western Highlands and in the Hebrides, the crofters have, in consequence of the subdivision and comminution of their holdings, ceased to

\* "Report of Royal Commission on Crofters," pp. 7, 8, 16.



be small farmers, making their living wholly out of the land. They resemble, rather, the cottier tenants, already described, in Ireland. They are labourers living chiefly by the wages of labour obtained in other ways, by fishing, by hiring out as gillies, during the sporting season, or by migrating to the south for temporary work during a part of the year, returning in the autumn to their crofts, to dig their potatoes, and to live there during the winter months, for the most part in idleness. The chief part of the work on the crofts, and in cutting turf for fuel, falls upon the women.

In other districts, as in Caithness, Orkney, and Shetland, there are still to be found communities of crofters of a more purely agricultural profession, who live wholly or mainly on the produce of their crofts. Mixed with the crofters are a yet inferior class of "Cottars," who have only their cottages, with or without small gardens, but without any land which can be called agricultural holdings. They are more exclusively labourers, depending on other employment for their living.

The process, which has been described above, of the gradual deterioration in the condition of the crofters by their deportation to other districts, or by the expropriation of the mountain land, over which they had formerly the privilege of turning out their cattle, has been to some extent accentuated by the creation of deer forests within the last fifty years. It appears, however, that, in the main, the deer forests have been created out of the large sheep farms, and to a large extent consist of

land, at such a height in the mountains, that it is not of much value even for the grazing of sheep. The cases are rare in which it has been proved that crofter communities have been removed in the interest of deer forests. On the other hand, it is undoubtedly the fact that some of the forest land, at the lower heights, included in deer forests, would be of great value to the crofters, as pasture for their cattle; but most of the owners of these domains, devoted wholly to sport, look with disfavour on the crofter communities, discourage their growth, and resist any demands for the increase of their pasture lands.

It is alleged that the deer forests have been the means of inducing a large expenditure by wealthy sportsmen from the south, during parts of the year, in the employment of gillies, and during the rest of the year in laying out paths, and in the erection of lodges. It is to be feared, however, that the profuse expenditure, during two months of the year, of wealthy strangers has not been without disadvantage on the crofter population, in encouraging habits of drink, in setting up a false standard of life, and in creating a class of sycophants, living in a certain luxury for a short time, and in idleness the rest of the year. Whether, from an economic point of view, the dispossession of sheep in favour of deer is a serious matter, is a moot point. The subject, however, is not a purely economic one. It is one affecting the moral and social conditions of the whole population of the Highlands. It may be doubted whether, apart from the high rents, which

the great landowners of Scotland derive from their sporting rights, and which for the most part are spent elsewhere, the local communities derive any real advantage from the substitution of sport and pleasure, for the ordinary and normal industrial occupations of an agricultural character.

#### THE CROFTERS' ACT, 1886.

It will be seen from this brief description of the Highland districts of Scotland, how closely the condition of the Scotch crofters and cottars resembled, a few years ago, that of the smaller tenants and cottiers in the west and south of Ireland. In both cases there were traditions of a not very distant past, before the introduction of the English system of laws, when the occupiers had recognised rights in their holdings, to the extent that they could not be turned out of them, so long as they paid their customary rents. In both cases the occupiers had also *ratione tenuræ*—enjoyed the use of adjoining waste lands and mountains for turning out their cattle at nights, so essential to small holdings. In both cases English law had been imposed on them, had refused to recognise the customs of the country, and had placed the occupiers at the mercy of the landlords. In both, the latter, by virtue of the rights and powers thus conferred on them, had in many cases consolidated the holdings, had effected clearances of the population, had removed the tenants to inferior lands, had been the cause of what are called congested districts, had deprived

small holders of pasture-land which they had previously enjoyed. In both cases the occupiers had effected whatever improvements existed on the land, had reclaimed and drained it, had erected the cottages in which they lived. In both, the law recognised no right, on the part of the occupiers, to the improvements they had effected, and gave them no compensation on dispossession. In both, the occupiers held by yearly tenancies only, under excessive rents, arbitrarily increased from time to time, without regard to the improvements of the tenants and their traditional rights—rents which in bad seasons the occupiers were wholly unable to pay.

It was, therefore, to be expected that when, in Ireland, the Land Act of 1881 recognised fully the injustice which had been done in the past to the tenants, and conceded to them the status of joint ownership with their landlords, by provisions embodying fixity of tenure, the right of free sale, and an appeal to an independent tribunal for the determination of rent, an agitation for similar concessions should arise on the part of the Scotch crofters. But for the precedent of that Act, it is not to be supposed that Parliament would have departed so widely from the previous views of jurists and economists, as to recognise a right on the part of the Scotch crofters, to a reversal of what had been effected, when English law was introduced into the Highlands, and the establishment of the crofters as joint owners with their landlords. The Scotch crofters were neither numerous enough nor, politically, powerful enough to compel attention to their grievances and their claims. The



precedent would have been considered too dangerous. After the passing of the Irish Land Act, however, it was soon perceived how close was the analogy in fact, and in historical tradition, between the Scotch crofters and the Irish small tenants, and it became impossible to resist the logic of the comparison.

In 1883 a Royal Commission, presided over by Lord Napier and Ettrick, was appointed to inquire into the grievances of the crofters. It reported in 1884. It affirmed, to the full, the complaints of the crofters, of want of security on their holdings, of default of compensation on removal for their improvements, of excessive rents, of deprivation of common pastures, and of undue restriction of the area of cultivated land. It recommended legislation for them on the model of the Irish Act. The General Election of 1885—the first which occurred after the extension of the franchise to the householders in counties—showed that under the secrecy of the ballot, the landlords, in all the northern counties of Scotland, had entirely lost their political influence. Candidates, pledged to support the cause of the crofters, were returned in all the Highland counties. Meanwhile an agitation of a serious character had arisen among the crofters in several parts of the Western Highlands. Those in the Isle of Skye refused to pay rents without heavy reductions; those in the Lewis demanded extension of their holdings, and when refused, made raids on the deer forests in their neighbourhood and killed off the deer. There were all the elements of an agrarian struggle of a dangerous character.

The Government and Parliament were not deterred by these outbreaks of violence from proceeding to consider remedial measures ; and in the short Parliament of 1886, while the Home Rule Bill for Ireland was under discussion, time was found for the passing of a Crofters' Act, framed on the general lines of the Irish Act of 1881, extending to the Scotch crofters the benefit of fixity of tenure and judicial rents, and constituting them dual owners with their landlords. The Act passed, with the assent of all parties, without opposition in the House of Commons, and without any denunciations or complaints that it was a measure of confiscation, or even an unjust invasion of the rights of landlords. This is the more remarkable when it is considered that the Act dealt with arrears of excessive rents as well as with future rents.

The Act differed, in many important respects, from the Irish precedent—in several matters going beyond it in the interests of the crofters, in a few lagging somewhat behind it. A comparison between the two measures is the more interesting, as the later Act will doubtless be quoted as a precedent for the future extension of the other.

The Crofters' Act\* concedes two only out of the three F's to the Scotch tenant—namely, “fixity of tenure,” and “fair rents,” to be fixed by an independent tribunal. It does not confer the right of “free sale.” On the contrary, the crofter is strictly prohibited assigning his holding to any other person. “The crofter,” it provides, “shall

\* 49 and 50 Vict., c. 29.

not execute any deed purporting to assign his tenancy." On the other hand, he is permitted to bequeath his interest in his holding to one person, being a member of the same family—that is to say, to his wife, or "any person who, failing nearer heirs, would succeed to him in case of intestacy." The landlord, however, is entitled to refuse to accept any such person as a successor to the crofter in the holding, on reasonable grounds, subject to an appeal to the Sheriff's Court. In the absence of any testamentary bequest, the holding descends to the heir-at-law, and where there is more than one heir, as in the case of there being no son, and more than one daughter of the crofter, then to the eldest of such persons. It seems, then, that a new law of succession is established for the crofter's interest, which in other respects is considered by law as personalty. The Act differs from the Irish Act in this, for the tenant's interest in Ireland vests, as personal property, in the executors of the will, or the personal representatives, on his death, and is divisible among the next of kin in the case of intestacy, but with the condition that the holding itself cannot be divided. Consequently, if no arrangement can be made among the next of kin, the holding must be sold.

The prohibition against assignment by the Scotch crofter of his interest in his holding, seems to have been adopted in his interest rather than in the curtailment of his rights as against his landlord. It has the effect of preventing the crofter mortgaging his holding. His creditors also cannot take the holding in discharge of his

debts. The crofter must obtain the landlord's assent to any assignment; and this power, it is presumed, will be used by the landlord in the interest of the tenant, rather than adversely to him. It would seem that there is an approach in this arrangement to the homestead law of the United States, under which a certain minimum of land, and of stock and plant, is free from liability for the debts of the owner. The tenure thus created assimilates also to the practice of the best-managed crofter estates before the Act. It was never claimed by the crofters that they had the right of selling their crofts, as was the case with the Irish tenants. It was always admitted that the landlord's power was supreme in the selection of a new tenant. On the other hand, the practice was for the croft to descend from father to son, or to such member of his family as the occupier designated by will.

The Act very closely defines the class of persons who, occupying land, are entitled to the status and privilege of "crofters." The holdings must be situate in the counties of Argyll, Inverness, Ross and Cromarty, Sutherland, Caithness, Orkney and Shetland. Their occupiers must be tenants from year to year, residing on the holdings, which must be rented at not more than £30 a year, and must be situate in a crofting parish. A crofting parish is defined as one in which there were at the commencement of the Act, or have been within eighty years prior thereto, holdings consisting of arable land, held with a right of pasturage in common with others, and in which there are still tenants of holdings which otherwise comply with the definition of "crofts." It will



be seen that leaseholders are excluded from the benefits of the Act, just as leaseholders in Ireland were not admitted to the benefit of the Irish Land Act till 1887.

Three commissioners were to be appointed under the Act (one of whom was to speak the Gaelic language), with power to decide, subject to the approval of the Secretary for Scotland, what parishes legally come within the terms of the Act. The Commissioners are directed to visit the districts, where applications are made by the crofters for judicial rents. The rents thus fixed are to be final in the sense that there is no appeal from the Commissioners; but the rent is fixed for seven years only, instead of fifteen, as in the case of the Irish Act. Any reduction of rent, made by the Commissioners, is to apply retrospectively to any rents, collected or due, from the date of the application by the crofter, an important difference from the Irish Act, which, however, was amended in this direction by the Act of 1887. The Commissioners are also empowered to wipe out or reduce any arrears of rent that may be due. This principle, rejected in the Irish Act of 1881, but partially adopted in 1882, after a party conflict which nearly gave rise to a constitutional crisis between the two Houses of Parliament, was admitted on all hands as necessary in the case of the Scotch crofters. "The question of arrears," said Mr. Robertson, the ablest of the Scotch lawyers on the Conservative side of the House, "is one which has to be faced, and I think it is for the interest of the landlord and the tenant, that some aid should be given by Parliament for the settlement of this



question.”\* And Mr. Arthur Balfour added, “I think it would be impossible to regard this Bill as satisfactory unless it contained some scheme for dealing with arrears.” And this, in spite of the fact that he considered the arrears to be due, not to poverty of the crofters, but to political agitation—and “that the wiping out of legal debts might lead to unfortunate demoralisation.” But not a voice was raised against the clause.

Another most important clause, not to be found in the Irish Act, though subsequently adopted, to some extent, in the Land Purchase Act of 1891, so far as the provisions applying to the congested districts were concerned, is that enabling the Commissioners, on the application of any five or more crofters, to enlarge either their separate holdings, or the land over which they have the right of pasture.

“Where any landlord,” the Act proceeds to say, “after application, has refused to let such crofters available land on reasonable terms, for enlarging their holdings or pasture, they may apply to the Crofters’ Commission, setting forth that there is land available for the enlargement of such holdings, which they are willing to take on lease, but which the landlord refuses to sell on reasonable terms; that is to say, on such terms as are usually obtained for the letting of land of the like quality, and similarly situated, in the same district for other purposes than that of a deer forest or a grouse moor or other sporting purposes.”

The Commission is then empowered to compel the

\* Parliamentary Debates, Vol. 304, p. 809.

landlord to let land on lease, for the enlargement of the holdings or of their pasture lands, at a reasonable rent, provided they are satisfied—

(1) That there is land in the parish available for enlarging the holdings of the crofters, but that the landlord refuses to let the same on reasonable terms.

(2) That the applicants are willing and able to pay a fair rent for it, and that they are able properly to cultivate the land, so far as it consists of arable land, and sufficiently to stock it, in so far as it consists of pasture land.

There are several restrictions on these important powers—

(1) The land so taken must be contiguous or near to the crofts.

(2) It cannot be taken without the consent of the landlord and of its tenant, if subject already to a lease, not being a lease for the purpose of a deer forest or grouse moor.

(3) No land can be taken

(a) which forms part of any garden, park, or plantation.

(b) which forms any part of any farm, whether subject to lease or not, unless the Crofters' Commission is satisfied that the part so to be taken can be assigned, without material damage to the letting value of the remainder.

(c) if it forms part of an existing farm of less than £100 a year letting value.

(*d*) if it is arable or improved pasture in the immediate vicinity of a residence or farmstead, or is land, which could not be taken, without substantially impairing the amenity of such residence.

(*e*) if it forms part of a deer forest, and if the taking of it, for the purpose of the Act, would seriously impair the use of the remainder, as a deer forest, and would act injuriously on the prosperity of the inhabitants generally of the district, in which such deer forest is situate.

(4) The addition to be made to any crofter's holding must not bring the annual value of the whole to more than £15 a year.

Land thus taken and assigned to the crofters is to be subject to the same legal conditions as the crofter's holding.

Provisions are contained in the Act, giving full compensation to the crofters on renunciation of tenancy, or on removal from their holdings, over and above that provided in the Agricultural Holdings Act, for permanent improvements, whether buildings or otherwise, provided

(*a*) that the improvements are suitable to the holding.

(*b*) that they have been erected or made or paid for by the crofter himself, or his predecessor in the same family.

(*c*) That they have not been erected in virtue of

any specific agreement in writing under which the crofter was bound to execute them.

The Commissioners are further empowered by the Act to settle any questions in dispute among the crofters or between them and their landlords, as to the taking of sea-weed, of peat, or of heather for thatching, and also any disputes as to boundaries.

From this brief description of this important Act, it will be seen in what respects it differs from the Irish Land Act of 1881. It falls short of that Act, and its amending Act of 1887, so far as the tenants are concerned, by not giving to the crofter the right of selling and assigning his holding; in not extending to leaseholders; in being limited to holdings of £30 a year and under.

On the other hand, it goes beyond the Irish Land Act in the following most important respects:—

(1) In giving full power to the Commission to reduce or to wipe out arrears of rent.

(2) In the shorter terms for judicial rents—viz., seven years instead of fifteen.

(3) In applying the abatements of rent to any rent paid or due after the application to the Commission. (This was adopted for Ireland by the Act of 1887.)

(4) By directing the Commissioners to visit the crofting district personally, and by making their decision final.

(5) By empowering the Commission to take land compulsorily on lease from adjoining landowners, for the

purpose of adding to the holdings of crofters, or to their common pasture.

(6) By empowering the Commission to draw up schedules for regulating the use by crofters of sea-weed, peat, heather, etc., and to determine disputes as to boundaries.

(7) By empowering the Government to lend money to crofters on personal security, for the purpose of encouraging the coast fisheries. (This, again, has been adopted, in the provisions with regard to Congested Districts, in the Irish Act of 1891.)

The Royal Commission on Crofters had also recommended that facilities should be afforded to them to purchase their holdings on the principle of the Bright clauses of the Land Act of 1870.

“It may at first sight,” they said, “appear strange to recommend the acquisition of small parcels of poor land at a high price by industrious and intelligent men, who would be able to invest their savings or the surplus product of their daily toil with far greater advantage in the vacant tracts of America and Australia. Yet habit and local affection bear so great a sway in the actions of mankind, that Highlanders will be found who would rather be proprietors in the mountains of Skye, or the wastes of Lewis, than on the fertile plains of Manitoba, and for no other purpose would they be more likely to receive assistance. In the mainland of Orkney a living example of small landowners is still extant in the ‘Lairds of Harray,’ who practise good husbandry, who rarely admit subdivision of the soil among their issue, and who buy and sell their miniature estates at from thirty to forty years’ purchase. The possession of real property ought to be a powerful agent in forming habits of industry and self-respect, and in supplying sources of rational enjoyment. An



opportunity of embracing this alternative condition of life and labour should be offered to the Highland people, and Government might lend its co-operation with manifest advantage and little risk. The earnings of the fishermen are precarious and intermittent, but they are often considerable. The purchase of holdings might offer a safe investment for money suddenly won and easily spent. The practice of purchasing the dwelling already prevails in the villages of the east coast and in Loch Fyne, and might be extended among the same class in the western Highlands and islands."

They recommended that the Government should advance, by way of loan, two-thirds of the purchase money, up to twenty-five years' purchase of the rent, where the landlord and crofter should agree to a sale and purchase.

This recommendation, however, was not carried out in the Crofters' Act. In the course of the discussions, Mr. Arthur Balfour proposed an amendment for giving effect to a scheme of purchase, not so much in the interest of the tenants, as in that of the landlords. He proposed that when the Commissioners should reduce the rents of any croft, the landlord might claim to have his interest bought, at not more than twenty-five years' purchase of the rent.

He said, "The Amendment will give to every landlord the power to say—'If you forbid me to use my land in the manner in which it has hitherto been used—if you prevent my being full owner of my property—I do not object to it, but take the ownership yourself. . . . You will avoid the system of joint ownership, which you have tried in Ireland, and found to fail, which you

are about to try in the north of Scotland, where you will also find it to fail. . . . If you object to landlordism, in the sense of large proprietors, by all means, after due consideration, substitute for it small proprietors, but do not attempt to substitute this absurd scheme of small properties held in joint ownership.”\*

It was answered by the Minister in charge of the Bill that the crofter had neither the desire, the will, nor the ability to become the owner of his holding. The proposal was rejected by a majority of 215 to 123.

Looking back, with the experience of both Irish and Scotch Acts, it cannot be denied that the latter was far more complete, and in every respect better suited to the small holdings, than was the Irish Act of 1881. It had the advantage of being framed after full consultation and concert with the representatives of those for whom it was intended, and with the knowledge of the shortcomings of the Irish Act. It was passed also without that vehement party opposition, which has generally been the experience of remedial legislation for Ireland. It embodied many of the amendments which had been asked for by the Irish members in 1881, but which were then refused. If a similar measure had been applied to holdings of under £30 a year rental in Ireland, leaving the large holdings to the other provisions of the Act of 1881, it would have gone a long way to solve completely the agrarian difficulty,

and would have saved Ireland from much subsequent agitation and suffering.

Many attempts were made, in the course of the passing of the Scotch measure, to extend its provisions. An amendment to include crofts let on leases was rejected by a narrow majority. Another proposal, to extend the operation of the Act to other counties, such as Aberdeenshire and Perthshire, was also rejected by a yet smaller majority. The limitations imposed on the discretion of the Commissioners, in respect of the additions to the crofters' holdings and common pastures, and especially that relating to deer forests, were also severely criticised. That referring to deer forests was proposed by Mr. Arthur Balfour, who expressed the confident opinion that deer forests should be maintained in the interest of crofters, as they afforded so much casual employment for them as gillies and gamekeepers.

The Royal Commission on Crofters had not spoken in the same confident tone on the subject of deer forests. It pointed out that, as compared with sheep farms, they resulted in a greater outlay of capital expenditure and in the employment of more labour. It showed that crofters had rarely—at least, in recent times—been removed to make, or add to, deer forests; that comparatively little of the land so occupied could now be profitably cultivated or pastured by small tenants; and that, contrary to what is the general belief, deer forests, in a far greater degree than sheep farms, afford employment to the various classes of labourers.

But they added that—

“ The formation of deer forests is calculated to perpetuate in an altered form an evil, which has often been submitted to our attention — the absence of a graduated local representation of the various orders of society. Under the system of pastoral farming, on a larger scale, this defect is deeply felt. The labouring class is represented by the crofter, the cottar, and the shepherd; the large farmer is the absent tenant of an absent landlord. The minister, the doctor, the schoolmaster, and the factor, thinly scattered at great intervals over the forsaken country, are the only representatives of culture, of counsel, and of power. This forlorn feature in the social aspect of some remoter parts of the Highlands is changed, but not much mitigated, by the transfer of the farm to forest. For a brief space in the year the sporting tenant appears at the lodge, with company, expenditure, and benefaction in his train; but the area consolidated in a single hand is greater still; the gulf between the labouring people and the leaders of social life is as wide as ever, the leaders are less concerned in local interests, and intermediate social positions are blotted out. . . .

“ It is our opinion that provision should be framed, under which the crofting class would be protected against any diminution for the purpose of afforestation of arable or pasture area now in their possession, and by which the areas, which might hereafter form the most appropriate scene for expanding cultivation and small holdings, should be preserved from curtailment. . . .

“ The appropriation of land to the purposes of deer forest might be prohibited below a prescribed contour-line of elevation, so drawn as to mark in a general but effective way the limit of profitable root and cereal cultivation, of artificial pasture, and of pasture adapted for wintering live stock—a line which on the east side of Scotland, in a high latitude, might approximately be fixed at an altitude of 1,000 feet above the sea-level; and on the western seaboard at a level lower than 1,000 feet, making allowance locally for the convenience of the march.”

With respect to the destruction of the crofters' crops by deer, the Commissioners say :—

“The complaint that arable ground possessed by crofters, when in the vicinity of a forest, is liable to be ravaged by deer, is one which has been brought several times under our notice. In some cases the proprietor has, when appealed to by the crofters, shown readiness to erect a fence to protect their crops from depredation, or to afford aid in warding off the deer ; but in others the small tenant has been left without protection and without assistance, in which case the cultivator is exposed to a double prejudice—substantial injury and the hardship of night watching. Where the forest from which the deer proceed is adjacent to the crofter, and belongs to the proprietor of the crofter's holding, the remedy, in our opinion, is clear and simple. The proprietor should be bound to erect a sufficient deer-fence round the arable land of the township, or the individual crofter's holding, in so far as it is requisite for the complete protection of the party injured. This fence should be maintained by the proprietor in regard to skilled labour, transport, and purchased materials, the crofters being held to afford unskilled labour on the ground. The case becomes much more complex and difficult to determine when the deer issue, not from a forest belonging to the proprietor of the holding injured, or not only from such a forest, but from forests more or less remote—in fact, from the whole neighbouring country. . . . Under such circumstances the only practical solution might be to grant an inalienable right to the crofter to kill the deer on his arable land when found injuring his crop ; and this alternative would be most consistent with the principles embodied in the Ground Game Act of 1880.”

No legislation has been adopted with regard to either of these two proposals of the Crofters' Commission. At the time of their Report, in 1884, the deer forests of Scotland are said by them to have extended over about



2,000,000 acres. Since that year there have been added to the area about 500,000 acres.

#### RESULTS OF THE CROFTERS' ACT.

In pursuance of the Crofters' Act of 1886, a Commission was appointed, consisting of a Commissioner and two Sub-commissioners, for the purpose of carrying out the directions of the Act; and during the last five years these Commissioners have been engaged in visiting the crofter districts in the north and west of Scotland and in the islands, in fixing rents, wiping out and reducing arrears, in hearing and determining claims for enlargement of holdings or of common pastures, and in settling disputes of boundaries and successions under the Crofters' Act.

During this period the Commissioners have determined fair rents in 11,679 cases. The holdings consisted of 66,500 acres of arable land, 69,900 acres of "outrun," and 850,400 acres of common pasture, giving an average of a little over five acres of arable land, five and a half of outrun, and seventy acres of common pasture. The old rent was £59,000, or about £5 per holding. The Commissioners have reduced these rents to £41,866, or about twenty-eight per cent. Arrears were owing in respect of these holdings, amounting to £149,382—equal to nearly three years' rent. The Commissioners have cancelled £100,675 of these arrears—sixty-seven per cent., or nearly two of the three years' arrears—and have required payment of £48,600, a little over one year's rent at the reduced rate. This is the average of

the whole; but in many cases the reduction both of rent and arrears has been far greater. There remained at the end of 1891 but 3,155 cases to be dealt with. The work, therefore, of the Commissioners, so far as the determination of rents is concerned, is approaching to a completion.

During the same time, there have been 187 applications from 2,084 crofters for enlargement of their holdings or their common pasture. Of these, only 32 cases from 527 crofters have been sanctioned; 79 cases from 867 crofters have been dismissed; and 74 cases from 688 crofters remained to be dealt with, in 1891. It does not appear that in any case has there been an enlargement of a holding. The enlargements have been of the common pastures.

It is evident, from the proceedings of the Commission, that the difficulties in the way of enlargement of holdings or of common pastures are very great. The conditions imposed by the Act of 1886, and on which the Commissioners must be satisfied, before they sanction the enlargement, and the taking of land for the purpose from the landlord of the crofters, are so numerous and minute, that very few cases can be expected to run the gauntlet. Among the chief difficulties are that the land, required by the crofters, is often the subject of a lease to some grazing tenant, effected before the passing of the Act, or that it forms part of a farm of which the rent is under £100 a year, or that it cannot be taken from a contiguous farm or forest without interfering with the value of the residue. It appears that only in two cases have

the Commissioners been able to grant enlargement out of deer forests. Assuming that all the other conditions are complied with, and that the landlords are unable to avail themselves of any of the numerous points which are open to them, the Commissioners have to satisfy themselves that the applicants are able to pay a fair rent for the land, that they will properly cultivate it as arable or pasture land, and if pasture land, that they will be able properly to stock it. In a special report explaining their reasons for having been able in so few cases to enlarge the crofters' holdings, the Commissioners say: "We are of opinion that poverty, such as was largely indicated by the circumstance that the crofters had fallen heavily into arrears of rent, has materially operated to prevent applications for enlargement. This of itself would make it a serious matter for intending applicants to satisfy the Commissioners that they are willing and able to pay a fair rent for the land asked for, and are able properly to cultivate the land, if arable, and properly to stock the same, if pasture. Even assuming arrears to be due to excessive rents, and that a fair rent is now fixed, it is manifest that compliance with the above requirements must be attended with much difficulty." \*

It is evident that the whole subject of the enlargement of the crofters' holdings, and of their common pastures, will require a careful reconsideration by the Legislature. It is now proved beyond question that the crofters were terribly over-rented for years before

\* Report of the Crofters' Commission, 1888.

the Act of 1886; that their holdings were allowed to be comminuted to a point insufficient for their existence; that much of the land was deteriorated by over-cropping; that the poverty, into which the tenants had fallen, was the result of this over-renting, and the comminution of their pastures in the interest of adjoining sheep farms and deer forests. It seems cruel mockery to deny them that increase of their holdings and pasture (which alone can afford them a living), on account of their poverty, when that poverty is the result of bad treatment by their landlords in past times.

As an illustration of the cases which arise upon the claims of crofters for the enlargement of their common pasture out of adjoining deer forests, the following passage may be cited from the last report of the Commissioners:—

“The crofters of the townships of Elphin and Knockan, Assynt, asked for enlargement of their holdings by taking land from the Forest of Glen Canisp, let to Earl Brownlow. The proprietor, the Duke of Sutherland, opposed the application on the ground that the assignation of the land would seriously impair the use of the remainder as a deer forest. On hearing the case and on inspection, it was found that the land applied for extended to a distance of fully five miles along the north shore of Loch Veyatie, was from half a mile to one mile wide, and that there was a narrow strip of water about half a mile in length connecting Loch Veyatie with Fionn Loch, which strip crossed the principal pass taken by deer when going to or coming from the adjoining deer forest of Coulmore. Were the application granted, this pass would be disturbed or closed up against deer, and, thereby, the use of the remainder as a deer forest

seriously impaired. The application, therefore, as made, could not be conceded, having regard to the provisions of Section 13 (3) (e) of the Act. On the other hand, it was plain that the applicants had a reasonable claim for enlargement of holdings, as their common pasture ranges from 500 to 1,600 feet above the level of the sea, and is liable to be covered with snow in winter for considerable periods of time. They need grazing land at a lower altitude. It was ascertained that the claim might be met by taking from the forest 880 acres in another part. This land, however, cannot be assigned unless the applicants undertake the erection of fully one mile of such fencing as will suffice to keep stock out of the forest. An order has meanwhile been made whereby the applicants are allowed to lodge a minute stating whether they will undertake to erect the necessary fence. The case is one of importance and difficulty.” \*

The reports of the Crofter Commissioners are full of interest as to the condition of the crofters, and as to the various disputes and complaints, which have come before them. It appears that the common pastures are held by the crofters under various systems—sometimes on the Club Farm system, where the tenants interested club together, and graze the pasture with sheep belonging to them all in common; elsewhere, the pastures are regulated, and every crofter is limited to turning out a certain number of cattle or sheep; in other cases, there is no regulation, and each commoner turns out as many head as he can. In this matter, the following remarks of the Commissioners are of interest:—

“ Most of the common pastures on Lord Macdonald’s estate in Skye, which we examined, are grazed on the Club Farm system—that is to say, the crofters interested in a hill pasture

\* Report of the Crofters’ Commission for 1891, p. 20.



have a common sheep stock, under the management of one or more individuals specially charged therewith, and each crofter is from time to time paid his proportion of prices or profits. This, in our opinion, is a highly desirable system, and, if honestly carried out, operates beneficially for all. On the other hand, in those parts of Sutherland and the western islands visited, each crofter, in the absence of any uniform management, grazes as many sheep as he pleases on the common pasture. The inevitable consequence of this is that the strong take advantage of the weak, and the better-to-do of the poorer, tenants. Widows in particular, and old men whose families have grown up and left them, suffer greatly. It was not an uncommon thing for us to find one crofter with thirty or forty sheep, and his neighbour with only six or seven, though both had the same rights of pasture. Other undesirable results of this mode of grazing are, that no proper or uniform system of breeding is maintained, that the sheep are subject to constant molestation, every crofter being obliged to look after his own, and that no due regard is paid to the 'carry on the hill,' many of the crofters interested placing more sheep on the ground than it will support. Hence the death-rate among sheep, where such defective arrangements exist, is much greater than where the Club Farm system has been adopted."

In comparing the general results of the Crofters' Act with the Irish Land Acts of 1881 and 1887, the Arrears Act, and the congested districts part of the Land Purchase Act of 1891, it will be seen what a striking analogy there is between the results of the two methods. The average reduction of rents of the crofters in Scotland amounted to twenty-eight per cent.; that in Ireland, for all tenants, to twenty-five per cent. If the smaller tenants were separated from the larger, it is probable that the reduction in Ireland would more nearly approach

that in Scotland. In Scotland, the average of arrears was three years' rent, and two years' rent was wiped out by the Commission. In Ireland, it has been shown that the arrears in respect of the smaller tenants, dealt with by the Arrears Act of 1882, amounted on the average to three years' rent. Of this, one year's arrears were wiped out, those of another year were paid to the landlords out of the Church Surplus Fund, and one year's rent only was required from the tenants. Yet this measure, so favourable to the landlords, was denounced as robbery and spoliation, and as a most indefensible interference with just debts, while the far more stringent Act for Scotland was passed with universal consent, and without even the suggestion of injustice or wrong.

The powers of the Congested Districts Board for Ireland closely resemble those of the Crofters' Commission for the enlargement of holdings and of common pasture, but, so far, have resulted in nothing; while the Crofters' Commission has found it most difficult to put in force this salutary provision. On the other hand, the Irish Board has very wide powers for improving the condition of the people, and is endowed with a considerable income for the purpose; while the Crofters' Commission is without such powers. It is probable that a comparison between the two systems will lead to improvement and extension of both.

In Scotland there is already a strong movement in favour of an amendment and extension of the Crofters' Act. It is contended that leaseholders should be included in its benefit. It is alleged that many landlords

in Scotland, after the passing of the Irish Land Act of 1881, fearing the extension of it to their own country, induced their crofter tenants to take leases, with the express object of excluding them from the operation of any legislation framed on the model of the Irish Act. If this be the case, and in view of the extension of the Irish Act to leaseholders in 1887, it will be difficult to refuse the same extension in Scotland. It is also claimed that the Crofters' Act should be extended to other counties in Scotland. If there be any considerable number of persons, in the same position as the crofters, in other counties, it will be unreasonable to refuse them the same privileges. Lastly, it is maintained that the provisions of the Act for enlarging the holdings and the common pasture of the crofters, should be made operative and workable.\*

It is also to be observed that the great consideration shown by the Legislature for the remaining crofters has raised expectations and hopes in many adjoining districts, where the crofters have, within modern times, been improved out of existence by the consolidation of their holdings into large farms.

In the Lowlands of Caithness, Elgin, Morayshire, and other districts adjoining the Highlands, which are now laid out in very large farms, it appears that the land was originally reclaimed from the waste and moor by persons in the position of crofters. The process of the

\* A Royal Commission has quite recently been appointed to report upon the deer forests of Scotland, and whether any portions of them are available for the extension of the common pastures of the crofters.

clearance of these people, and the consolidation of their holdings into large farms, has taken place within the present century. The crofters and their families were deprived of their holdings without any compensation. Many of them emigrated. Others became farm labourers on the larger farms. It cannot be said that their condition has been improved by the change. In the Lowlands of Caithness the process of consolidation has been carried to its furthest point. The farms are very large. They are cultivated by a small body of what are termed "pluralist farmers," many of whom hold three or four, or even more, large farms of over 400 acres each. By letting them in this way the owners are saved the expense of erecting a number of separate farm-houses. The labourers are hired by the year. The married men live in cottages attached to the farms, mostly without gardens. The unmarried men herd together in bothies, such as have been already referred to. The landowners are, for the most part, in embarrassed circumstances, are non-resident, and are only too glad to be relieved of the expense of building farm-houses. The agrarian condition of such a district, where the system of large farms exclusively prevails, where the landowners and large farmers are mostly non-resident, where the labourers have no attachment to the soil, and where there are wholly wanting the steps in the ladder by which they can rise in the social scale, cannot be said to be satisfactory or sound. The net produce of the land may be large; but if it finds its way into the pockets of non-resident farmers, and Edinburgh factors and mortgagees,



it does little to improve the condition of the people of the district.

It cannot be matter for surprise that the labourers, in such a district, and under such conditions, are dissatisfied, and are demanding agrarian reform of a very radical character. They have the recollection of their parents or ancestors, in no remote times, having been small farmers with an interest in the soil, and with an intense love for their homes and holdings. They have the memories of the great wrong inflicted on them by the clearances, and consolidations of holdings, when these people were deprived of their homes, and were reduced to the condition of labourers. This feeling has been aggravated by the passing of the Crofters' Act; for the Act was a practical *ex post facto* recognition that the crofters had an interest in the soil and in their homes, different from that of other farm tenants, and that they should not have been evicted at the mere will and caprice of the landlord. If such a measure had been passed into law fifty or eighty years earlier, it would have prevented the clearances of large bodies of crofters, the consolidation of their holdings into the large farms of the present time, and the conversion of crofters into labourers.

These traditions, among the labouring population, of past wrongs, and the knowledge that, in the absence of small holdings, they are now practically debarred from hope of rising from their position to that of small farmers, account, in a large measure, for the very radical nature of the representation in Parliament of the counties referred to. In what direction and to what extent it



will be possible to undo the past, and to re-create small holdings, and to bring the land within reach of the labouring people, is a problem which has to be considered and dealt with. The process of breaking up the larger farms into small ones must be a costly one, involving considerable outlay on farm buildings, and other expenses. The landlords, as a rule, are without the means to undertake it. It is difficult to believe that the county authorities, under the Small Holdings Act of 1892, will effect much, even if they attempt it. The probable outcome of this Act, however, will be considered later.

In the south of Scotland the land question does not appear to be so ripe. Whatever may have been the origin of the present agrarian status there, the system of large farms, and the complete separation of the three classes of landlords, tenants, and farmers, have existed so long, that there is no recollection of a previous condition. The English system is seen there to its best advantage, so far as the cultivation of the soil is concerned. The farmers are protected in their improvements, and in their outlay of capital, by the prevalence of leases of nineteen years. The cultivation is of a very high order. The labourers are well paid, though their condition leaves much to be desired. The good relations between the landlords and their tenants are shown by the fact that they have passed through the ordeal of the very severe agricultural depression, of the last twelve years, without a crisis. In spite of the fact that long leases prevail,

entered into at times when prices were high, rents have been very largely reduced, and the difficulties have been surmounted without the intervention of the legislature.

In most other respects the agrarian condition of Scotland resembles that of England. The Agricultural Holdings Act of 1875, the Ground Game Act of 1880, the Small Agricultural Holdings Act of 1892, apply to Scotland equally as to England. The Allotments Acts do not apply. Lord Cairns' great Act of 1882 does not apply; but there is greater power of disentailing estates, and of getting rid of family settlements, under the Scotch law; and when this is done, the land may be sold, and the proceeds may be divided between the persons interested, in a manner which frees the funds from the trusts and settlements.

## CHAPTER IX.

### THE AGRARIAN CONDITION OF THE CHANNEL ISLANDS AND THE ISLE OF MAN.

THE description of the agrarian condition of the British Isles will not be complete without a short reference to that of the small islands of the group, which differ so essentially from their larger neighbours in respect of the ownership and tenancy of land—namely, the Channel Islands and the Isle of Man.

In the Channel Islands landed property is distributed among a very great number of small owners, a large proportion of whom cultivate the land themselves in small holdings. In Jersey, with an area of cultivated land of not more than 20,000 acres, there are 2,500 owners, giving an average of eight acres each. A large percentage of the land is cultivated by its owners. In Guernsey, with a smaller area of cultivated land, there are relatively a greater number of owners, and sixty per cent. of the land is cultivated by them. These small cultivating owners are scarcely of the class we should call peasant proprietors, though their acreage is small ; they are rather of the class of small yeomen farmers. Their land is of great value in proportion to its area. The

cultivation is of a very high order. It involves a very great expenditure in manure. In Guernsey, almost every owner has his glass houses, where he grows grapes and tomatoes. In Jersey also there are considerable areas of land covered by glass. The main product, however, of Jersey is that of early potatoes for the London market. Four thousand acres are devoted to this, at a cost of cultivation alone of £40 per acre. The produce is said to be worth £300,000 in good years. Land suitable for this crop sells at £200 the acre.

The industry of the cultivators is most remarkable. There are everywhere unmistakable signs of prosperity, of comfort, and of the saving habits of the population. The small owners are not above working themselves on the land, and in their glass houses, employing sometimes additional labourers. There are few cottages, in the ordinary sense of the term, such as would remind us of rural England. There are very numerous small farm-houses scattered over the island, affording evidence of comfortable circumstances. The class of yeomen farmers form a body of intelligent and independent men, proud of their status, devotedly attached to their island institutions, and thoroughly loyal to the Crown of Great Britain.

Of the extraordinary amount of the produce of the island, of the high cultivation of the land, of the general industry, prosperity, and content of the population, of the wide diffusion of landed and of personal property among them, of the saving habits and thrift of the people, there cannot be the smallest doubt. The only question

is, whether this is due to the favourable soil and climate of the islands, to the exemption of the inhabitants from Imperial taxation, or to their laws and institutions, which have favoured the distribution of land, and have opposed obstacles to its aggregation in few hands.

That a sunny climate and the natural capacity of the soil may have something to account for in these conspicuous results may well be. It appears, however, that many parts of the south of England are nearly as well favoured in this respect, without exhibiting these results. The best authorities of the island, and the general opinion of the people themselves, attribute their condition to the fact that they have enjoyed Home Rule, and that they have never been subjected to the English land laws relating to the inheritance, settlement, and transfer of land, with their inevitable tendency to the accumulation of land in few hands.

The islands have enjoyed from time immemorial the old customary law of Normandy with respect to the ownership and descent of land. They escaped almost wholly from the operation of the feudal law, with its principle of primogeniture and its facilities of entail—laws which, in France, under the old *régime*, were applied only to the property of the nobility. The nobles of the Channel Islands fled from them when the separation from France took place in Norman times. Their manors were confiscated by King John. There remained only the common people and their customary laws. These laws differed little from the customary laws of France,



which were with some modifications made universal by the Code Napoleon.

The laws of Jersey aim at the subdivision of land. On the death of the owner of land, his property must be divided among his children. The eldest son is allowed to have a certain small advantage over other children; he inherits the principal house and two acres of land. After subtracting this, the residue is divided in the proportion of three-fifths equally among the sons, including the eldest, and two-fifths equally among the daughters, but with the further provision that a daughter's share is not to exceed a son's share. The widow receives the income of one-third for her life, and her right of dower to landed property belonging to her husband at the time of marriage is indefeasible. There is no right of testamentary devise of any landed property if there be children, and, in the absence of children, only of land which may have been acquired by the testator during his lifetime. In respect of personal property, the testator may dispose by will of one-third only if there be children, and of one-half if there be a widow but no children. Entails are strictly prohibited; and the law which, in 1850, authorised within the very narrow limits above described, devises of landed property, prohibited the creation of successive estates for life.

The people of the island have resisted with the greatest obstinacy any attempt to introduce the English system of land laws. They are devotedly attached to their own institutions and laws. They attribute to them the fact that property is so widely distributed, and assign them

as the cause of the universal thrift, industry, and saving habits of the population, which have led to such remarkable results in the aggregate wealth and prosperity of the islands.

In Falle's "*History of Jersey*," edited by the Rev. Edward Darrell, which gives the best account of the special laws and customs of the island, the following passage occurs, representing the prevalent views in Jersey both of the jurists and of the people :—

"If the descent of property had been regulated here as in England, the island would long ago have become the property of a few powerful families, which would have left no intermediate class between the large landlord and the rack-rented dependent: It is to the land laws that we owe the substantial Jersey freeholders, who are at once the boast and the protection of the country. . . . Under this system the country has flourished. Perhaps no population anywhere possesses collectively a greater aggregate of wealth. At the same time, there is scarcely any other place, where a population of equal numbers could show so few of very splendid fortunes. The system corrects itself. When the shares are small, the younger children do not think of farming themselves, but sell them to the elder brother for money or 'rents,' and go into business. It is, therefore, so far from being correct that estates are reduced almost to nothing, that very few indeed could be found which are materially reduced by partitions, and none whose relative agricultural produce is affected by them."

This was written in 1837, before the island had, by means of steam communication, obtained an easy market in London for its products of early vegetables and fruit, to which it is customary to attribute its present wealth. It represents, not less at the present time

than then, the almost universal opinion of the best-informed people in the island as to the cause of its prosperity.

There is an interesting provision in the island law, which serves in lieu of a system of mortgages, and which aids in the distribution of property on the death of the owner, and the maintenance of small ownerships. The owner of land may burthen his property with a permanent annual payment up to three-fourths of its value. These charges are called *rentes*. They are subdivisible. On non-payment of these charges, or any part of them, the holder may obtain a decree for the sale of the land, but so long as they are paid the principal sum cannot be called in. Neither can the owner of the property pay them off directly against the wish of the holder, but he may discharge his property of them by substituting other *rentes* on other property—which he may purchase—and the holder is bound to take such substituted securities provided they are of the same value and security. These *rentes* are treated as landed property. They have the advantage that they offer the means of investing small sums on the security of landed property, without the inconvenience of being liable to be paid off like mortgages. The debtor, on the other hand, instead of being obliged to wait, until he has accumulated a sum sufficient to pay off his mortgage debt, may get rid of the debt on his property by buying and assigning to his creditor small amounts of *rentes*, as low as £8 at a time, and cancelling the charge on his property by that amount. The Jersey freeholder who buys subject to such

charges need only advance one-fourth of the purchase money, and he is independent of the rent-holder so long as he pays the interest due. By law, the purchaser of land must pay down one-fourth of the purchase money in cash, but he may leave the remainder as a charge on the property in *rentes*. This greatly facilitates the dispersion of land by extending the sphere of competition, and enabling persons to buy, who would not do so under a different system.

Most of the freeholders in Jersey are more or less encumbered with such rent charges; but if the owner is industrious he pays them annually, and gradually reduces their amount. There are some disadvantages connected with the system: the chief is, that the *rentes* may be split into minute fractions, and the expense of collection becomes heavy.

It will be seen that the whole system aims at the subdivision and dispersal of property, and the result shows that the object has been achieved. There are probably few communities in the world where property is more widely distributed, and where there is so little poverty. In a single parish of Jersey—that of St. Peter's, a purely rural district of 3,030 acres—there was ten years ago a population of 2,150, or 530 families, and of these 404 were registered as owners of land or *rentes*. The rateable value of the parish was £13,000. It may be that the light taxation of the islands contributes to this favourable result, but from every point of view their social and economic condition is well worthy of careful consideration.



## ISLE OF MAN.

The Isle of Man is another exception to the general condition of the United Kingdom as regards the ownership of land. It contains a very numerous proprietary. Its area comprises about 80,000 acres of cultivated land, mostly small farms of from 20 to 100 acres in extent. There are very few large landowners. The smaller farms are in a large proportion cultivated by their owners. Thirty per cent. of the total acreage is there owned by the cultivators. There is a numerous class of yeomen farmers, whose families have owned their land for long periods, and even for centuries.

It appears that the occupiers of the land in olden times held as customary tenants under the feudal lord or chief of the island. From having been merely tenants at will, they had by degrees acquired fixity of tenure, with the right of renewal to themselves and their heirs, on payment of customary fines of small amount; but they had not obtained the right to sell their land without the permission of the lord. Save in this respect their position was much the same as that of the tenants in Ireland, for the tenants had effected all the improvements on their holdings, and the lord had never contributed anything for the buildings, drainage, or other improvements. About the middle of the seventeenth century an attempt was made by the then lord of the island—the Earl of Derby—to treat these customary occupiers as tenants in the English sense of the term, and to assert the right of



full ownership in the land. He forced the tenants to accept leases of 21 years, at the end of which, their legal rights would cease, and he would have the right to resume possession, or to impose rack rents on them, and practically to appropriate their improvements.

This gave rise to great discontent and agitation. After long disputes on the subject, a settlement was arrived at in 1703 between the occupiers of the land and their lord; this was confirmed by the local legislature, and the reigning earl gave his consent to it as lord of the island. It was re-affirmed by a later Act in 1777. The preamble to this Act is as follows:—

“The ancient feudatory tenures of this Isle between the Lord and his tenants having in the year 1643 by undue means been changed into leasehold estates, the regular course of descent which before had flowed in an easy uninterrupted stream was thereby clogged with difficulties not to be borne; the tenants grew dissatisfied, and much litigation ensued which tended to dissolve all harmony and subordination between them and their chief, so essential to their mutual interest and happiness; for the remedy whereof the Act of Tynwald called the Act of Settlement was passed in 1703. This Act, which has ever been regarded as the Magna Charta of the Island, provided as follows:—‘Whereas several disputes and differences have arisen and been contested between the Lords of the Isle and their tenants touching their estates, tenures, fines, rents, suits or services, to the great prejudice of the Lords and the impoverishment of the tenants and people thereof, who by that means have been discouraged from making such improvements as their estates were and are capable of; for the absolute and perpetual ascertaining whereof, and the avoiding all ambiguities, doubts, and questions, proposals were made unto the said James Earl of Derby by 3 persons named under an instrument of the 24 Keyes, who are

empowered to treat on behalf of all and every the tenants within the said Isle, in the manner following :

“‘That in case his Lordship would be pleased to declare and confirm unto his tenants their ancient customary estates of inheritance in their respective tenements, descendable from ancestor to heir according to the laws and customs of the Isle, that then the said tenants should in consideration thereof advance and pay unto his Lordship the same fines which they severally and respectively paid for their several tenements in or about the year 1643.

“‘That all and every the said tenants of and within the said Isle and members of the same, as well all tenants in possession as in reversion, shall and may from henceforth for ever quietly and peaceably have hold and enjoy all their several lands and tenements to them and their heirs as customary tenants against the said Earl of Derby his heirs and assigns, paying unto the said Earl such yearly rents, boons, suits and services as hereinfore are mentioned and which now are or heretofore have been usually paid.’”

The Earl of Derby gave his full and free consent to the Act of Settlement, with a reservation only as to the tithes of the Abbey demesnes and certain rectories.

It appears that this Act of Settlement was somewhat analogous to the Irish Land Act of 1881, in the sense that it conceded fixity of tenure and free sale and the right of bequest to the occupiers of land in the island, and put an end to the assertion of a right of sole ownership on the part of the feudal lord of the island. The occupiers, thenceforward, held the land subject to a low perpetual rent, and to the liability to pay the customary fines on changes of tenancy either from death or alienation. Certain customary services for which the tenants were liable fell into disuse, and practically ceased after

the sale of the island to the Crown. Technically, the Crown is the owner of nearly all the land in the island. The occupiers hold under the Crown in perpetuity, on payment of (*a*) the Lord's Rent, which amounts to about £1,500 for the whole island, (*b*) fines on alienation.

The laws with respect to the inheritance and tenure of land in the island are practically the same as in England. If the land has continued to be widely distributed, it is due probably, in part, to the fact that the Act of Settlement referred to is of comparatively recent date, and also to the fact that there has not been any great desire on the part of capitalists to buy up land, and to become great landowners in so remote an island, where no social or political advantages were to be gained by the process.

It is alleged that of late years, with a closer connection with England, there is observable in the island something of the same tendency as in Cumberland and Westmoreland, for the yeomen farmers to sell their farms and to become tenants, and for a consequent aggregation of land in few hands; but this has not gone far as yet. The general agrarian condition of the island is satisfactory. The land is well cultivated; the people are prosperous and content; there is little poverty; the labourers have the hope of rising from their position to be tenants and, ultimately, owners of small farms. It may be questioned whether, under the existing laws, the island can long resist the tendency to the aggregation of land which, it is believed, results from the operation of English laws of inheritance and

settlement, and a comparison between the working of this law and that of the Channel Islands will in the future be of great interest.

No one, however, can regard the condition of either of these parts of the British Isles without coming to a conclusion as to the immense value of a widely distributed land ownership, in promoting industry and thrift, in producing general prosperity and content, in knitting together the various classes of the community from the highest to the lowest, and in affording hopes and stimulus to the latter to rise from their position of labourers to that of tenants and owners of land.

## CHAPTER X.

### THE FUTURE OF AGRARIAN REFORMS.

THE foregoing review of the agrarian conditions of the different countries and communities, which constitute the United Kingdom and its dependent islands, has shown how varied are the actual circumstances in different parts, and how numerous have been the efforts of the Legislature to effect changes in the conditions of ownership and tenure of land, and in the relations of the various classes, which constitute their agricultural communities. Its main objects have been to give greater security to the cultivators of the soil for the outlay of capital and labour upon it, and a greater stimulus to their industry ; to multiply small ownerships and holdings of land, so as to create steps on the ladder, by which the lowest in the scale of social life, in rural communities, may rise to higher positions ; and to improve the status of and give greater independence to labourers. In furtherance of these objects, the relation of dual ownership of land between landlords and occupiers has been recognised and sanctioned in two of the three countries, in Ireland almost universally, in Scotland partially ; the use of State credit by means of



loans, at low rates of interest, repayable over a term of years, for the conversion of tenancies into full ownerships, has been adopted on a very large potential scale in Ireland, and tentatively, on a small scale, in England and Scotland. The same process has been sanctioned for the purpose of the artificial creation of small ownerships and tenancies in England and Scotland, through the agency of Local Authorities. The principle of the compulsory purchase of land, for the purpose of benefiting special classes of the rural community, has been sanctioned in England by the Allotments Acts, in Ireland by the Labourers' Act, and in Scotland by the Crofters' Act. Freedom of contract between landlords and tenants has been interfered with, and indefeasible conditions have been imposed on them by three important measures: namely, the Agricultural Holdings Act, the Ground Game Act, and the English Tithe Act. The sale of property, devoted to public uses, for the purpose of promoting the creation of small ownerships of land, has been recognised by clauses of the Act for Disestablishing the State Church in Ireland, and by the Glebe Lands Acts of England; special Commissions have been constituted for dealing with the occupiers of land in congested districts in Ireland and in Scotland, in the hopes of improving their condition. The intentions of testators and settlors as regards land, which they intended to make inalienable by their descendants for two or more generations, have been set aside by the Settled Estates Act. Efforts have been made to facilitate the transfer of land, and in Ireland the law

of primogeniture has been set aside in the case of small ownerships, artificially created under the Land Purchase Act, and such holdings are declared to be personal property, for the purpose of division among the children or relatives on the death of their owners.

It will be admitted that these various efforts of Parliament almost exhaust the possible methods of legislation, that it will be very difficult to discover any new scheme, and that whatever further is done must be in the direction of extending or improving, or making more effective, some or all of them. It is to be observed that the different measures adopted have had varying degrees of efficacy and success. The Irish Land Acts of 1881 and 1887, and the Crofters' Act of Scotland, so far as they were concerned in raising the status of occupiers of land, from that of mere tenants, to a level with their landlords, as joint owners, had immediate and complete effect according to the intentions of the framers of these Acts. By a few simple clauses in these Acts of Parliament the system of joint ownership was established; tenants were made independent of their landlords, were freed from capricious eviction, and from the arbitrary raising of rent, and were given fixity of tenure and the right of bequeathing their interest, and in the Irish case, of selling it. The only question which is in doubt as to the complete efficacy of the Acts, is whether the tribunals appointed to determine the amount of rents have fixed them at their proper rates. The defect, if it exists, may be corrected when the judicial rent is open again to dispute after a short term of years. So,

again, the Acts interfering in contracts between landlords and tenants have had the same instant legal effect. No one doubts that the Agricultural Holdings Act has effected its intention, though it is contended in some quarters that it has not gone far enough. The best proof of the success of the Ground Game Act is the general complaint that hares have almost disappeared in large parts of the country. In some few cases it is alleged that landlords have been able, by their personal influence, to induce their tenants not to take advantage of the intention of the Legislature that they should have full power to kill ground game on their farms. The Acts for the advance of State money by way of loan, to convert tenancies into full ownerships, have been successful in Ireland, just so far as the terms have been tempting to tenants to buy their holdings, in the sense that the payments to the State for a term of years are less than the previous rent ; but it is evident that large numbers of landlords are unwilling or unable to sell upon terms, which will induce tenants to buy. It may well be, therefore, that the last measure will not have the effect expected of it.

The Acts for the compulsory purchase of land for the erection of cottages in Ireland, for the enlargement of crofters' holdings and common pastures in Scotland, and for providing allotments for labourers in England, have been only partially successful in Ireland, and in Scotland and England have had practically no direct effect. The efforts for reducing the evils of our system of entailing estates have had but a small effect, and

those for simplifying land transfer have as yet been so feeble as to have no substantial result.

As regards Ireland, it is impossible to discuss what direction future land legislation should or will take, without entering upon political questions, affecting the government of that country, which would be beyond the scope of this work.

The future of English agrarian reform, however, is free from the political difficulties affecting the Irish question. There is also general agreement as to the objects to be aimed at. The leaders of the Conservative party have admitted, in speeches and by their legislation, that it would be most desirable to multiply small ownerships—in part because, like Lord Salisbury, they appreciate the danger to property from the small number of existing owners, and would be glad to add to the supporters of it by the creation of a numerous small proprietary, while doubting as to the economic results; and in part because, like the late Minister of Agriculture, Mr. Chaplin, they have come to the belief that, in the interest of the labouring men in rural districts, and in the hope of giving them an inducement to remain in their native villages, and not to crowd into the towns, or to emigrate, it will be wise to multiply small ownerships and small tenancies, so as to afford the steps in the social ladder, by which the labourers can mount to higher positions, and become tenants and even owners of land. On these points, and in favour of these objects, all are agreed. How to arrive at them, or whether the steps taken will achieve the end in view, is not so clear and certain.

## DUAL OWNERSHIP.

It will be admitted that, if it be desired to re-create a body of yeomen farmers, and to give the fullest possible security for improvements, and for the outlay of capital on the land by its tenants, the simplest and easiest course, by which this could be effected, would be to follow the lines of the Irish Land Act of 1881, and of the Crofters' Act of 1886, and to raise the status of all existing tenants in England and Scotland to that of co-owners with their landlords, by giving to them fixity of tenure, and the right of bequeathing, if not of assigning, their interest, and also the right of appealing to an independent tribunal for the determination of their rents. This would undoubtedly be a short cut. It would multiply by many times the number of landowners. Dual ownership has not, perhaps, the value of full ownership, but it is not open to the economic objections that have been urged against it in many quarters. The occupying joint owners would undoubtedly, under such a system, constitute a very useful class of yeomen farmers, permanently attached to the land, with the fullest inducement to invest their capital and labour in it, and with a freedom of cultivation very different from that which prevails on many estates.

The important question, however, arises whether such a measure could be supported and defended on any grounds of justice and equity, as between the existing classes of landlords and tenants. If it were true that the Irish Act, as has so often been contended by its



opponents, was a measure of pure confiscation, a concession wrung from Parliament only by agitation and outrage, without any moral or historical justification, and a transfer of rights of property from one class to another, without warrant or defence, then it is not easy to see why Parliament should not, with equal equanimity and with equal injustice, make the same concession to the English tenants, and mete out the same measure of confiscation to the English landlords, as to their Irish colleagues. Those, however, who advocated and defended the Irish Land Act on the grounds of justice, and on historic claims, and who approved the Crofters' Act for the like reasons, must be satisfied that there are similar reasons, and equally sound arguments, for extending this principle of dual ownership to England and Wales, and to other parts of Scotland.

It has been shown, and it must be repeated and emphasized, that the Irish Act was only a recognition by law of a status which practically existed—except so far as the determination of rents was concerned. The tenants throughout Ireland had, all but universally, effected the improvements to the land, had reclaimed it from its original waste, had drained and fenced it, had erected the houses and farm buildings—had, in fact, done everything which distinguished the farms from their original condition of waste land. They had done so under a general understanding that they were to enjoy the fruits of their improvements, that they were to remain on their farms, and bequeath them to their families so long as rent was paid; and in most cases they

were allowed to assign their interest to purchasers, and large sums were habitually given, with the knowledge of the landlords, by incoming to outgoing tenants for their interest.

Fixity of tenure and free sale, to a large extent, already existed, but were liable to be defeated by the arbitrary action of landlords, who refused to recognise the traditions of the district. The tenant's interest also was at the mercy of a landlord who arbitrarily increased the rent so as to expropriate it. The essence of the Land Act was the recognition of the *status quo*, the legalisation of an interest which, *de facto*, existed, and which was generally recognised, and the protection of the tenant's interest from confiscation by the landlord; and this could only be effected by interposing an independent authority between landlord and tenant to determine the rent. The same condition, it has been shown, existed in the case of the crofters in Scotland, and led to the Crofters' Act, which was practically based on the Irish Act.

Wherever the same conditions exist it will be right and just to extend the same principle, and to recognise dual ownerships; but with the exception of a few crofter communities, in counties bordering on the crofter counties, in Scotland, no similar conditions, it is believed, exist in any part of rural England or Scotland. The all but universal practice, in both countries, outside the crofter district, has been for landlords to effect all the improvements, to erect the farm-houses and steadings, to drain and fence the land, and even, with rare exceptions,

to maintain the houses and buildings in substantial repair. As a general rule, the annual outlay of landlords on such matters amounts to not less than 15 per cent. of the gross rental. In large numbers of cases, the rents now paid by the tenants represent no more than a fair rate of interest on the capital expended on the estates within quite recent years. The tenants also have never had expectations held out to them that their tenancies will be continually renewed, or will be extended to their sons. In Scotland the tenants are very frequently changed at the end of the customary nineteen years' leases. In England the changes of tenancies, except in the case of some very large estates managed on a kind of hereditary system, are very numerous. There has never grown up anything approaching to a tenant-right interest, such as has been described in Ireland. The right of an outgoing tenant is all but universally restricted to compensation for growing crops, the cost of cultivation, and unexhausted manures. It would be impossible, then, to argue in favour of conceding to such tenants judicial rents—which it has been shown practically involve fixity of tenure—upon any such arguments of justice as were proffered and admitted in the case of the Irish Act.

A demand has been made in some quarters for the extension of the Irish Land Act to the case of the Welsh tenant farmers. If it can be shown that there is any analogy between the position of Welsh tenants, and of Irish tenants before the Act of 1881, and that the former have made the substantial improvements on

their farms, a very strong case would be made out for such an extension. It is believed, however, that such cases are exceptional in Wales, that the general practice in the Principality does not substantially differ from that of England, and that landlords have been in the habit of making all substantial improvements. If this be the case, the analogy in this respect between Wales and Ireland fails, and if the Irish Act were actually applied to the Principality, the Land Commissioners would hold, under the clause exempting from judicial rents, all farms, where the landlords have effected improvements, that they would not be justified generally in giving to the tenants the benefit of the Act.

It has indeed been alleged that Welsh farms are over-rented, and that rents there have not been reduced in at all the same proportion as those in England, and that the tenants are not in a position of independence to enable them to contract on equal terms with their landlords. This has been denied on behalf of landlords, and, till some independent inquiry has determined the fact, it will be impossible to express a final opinion on the subject. It must be taken into account that pastoral Wales has not suffered in anything like the same proportion as the arable districts in the east of England have done from the agricultural depression of the last few years, and that, only within the last year or two, has the price of stock fallen to a point which has seriously affected the condition of the Welsh farmers.

On the other hand, it must be admitted, there are

special conditions in Wales which differentiate it to some extent, or in some parts, from England. In many purely rural parts of the Principality there is a wide gulf between the landowners and the farmers, approaching to that which exists in Ireland. The peasantry habitually speak a different language from their landlords, they are not members of the same religious persuasion, they maintain their own chapels and ministers, while the State church is that of the upper classes. There is something of the same earth-hunger among the smaller tenants, which may induce them to submit to higher rents, than are obtainable in England. It is significant that in Wales, as in Ireland and in the Highlands, the landlords have lost all share in the Parliamentary representation of the counties. In a careful and able review of the electoral position, published in the *Times* in the autumn of 1890, the result of local inquiry, the following explanation was given:—

“The explanation of the character of the present Welsh representation is to be found in other causes than that of an extended franchise. To begin with the land, one thing is remarkable. During the last twenty-five years the smaller gentry, with incomes ranging from £500 to £5,000 a year, have been disappearing from Wales. Financial difficulties have compelled them generally to sell or sometimes to let their small properties. Living among and mixing with the people, they formed a social bond which is rudely snapped when the property passes into the hands of some great landowner, who does not visit the place once in two years, or into the hands of a new man, who takes the place, but not the influence, of the old family. Again, the consolidation of small farms, which saves the landlord much in repairs, and which may have other advantages, has



for some time been adopted on many large properties in Wales. One result of this consolidation has been the tendency to drive the small farmer and peasant class into the towns. Large farms worked with fewer hands than a number of small holdings, and low wages, are every year lessening the number of agricultural labourers in Wales. The population in the purely rural parishes in Wales is steadily, if slowly, declining. These changes in the smaller gentry, the small farmer, and the agricultural labourer class, involve the breaking up of many ties and associations, and a corresponding change in sentiments and influence." \*

In England generally, it may be asserted that during the last few years the tenants have not been at the mercy of landlords, so far as rent has been concerned. The landlords have been even more anxious to retain their tenants, than the tenants have been desirous of remaining on their farms, and have submitted to very great reductions and abatements of rent. No claim, then, can be founded on behalf of the tenants, either as regards their historic or actual connection with their farms or as regards the rents exacted, for any measure framed on the Irish model. Nor is it certain that if the change were effected, the economic results would be satisfactory. It is to be feared that the tenant farmers in England have, as a general rule, insufficient capital, even for the purpose of carrying on their business as farmers, on the present system, and that they have none to spare for the more permanent improvements of their farms. If converted into co-owners with their landlords, the latter would necessarily cease to expend capital on improvements, or

\* *The Times*, August 22, 1890.

to maintain the houses and farm-buildings, and the result might be that the measure would tend to the diversion of capital from the land. In Ireland the case was different; for the landlords, as a rule, never expended any capital in improving their properties: they were mere rent-receivers. In England the landlords have been partners with the tenants, in the sense of taking upon themselves the cost of all permanent improvements. In the case of large farms involving a large application of capital for the course of cultivation, for plant, stock, and manures, there is much to be said in favour of the separation of the tenant's capital and landlord's capital on the English system. It frees the capital of the farmer for what may be termed the true business of farming, and it widens the field of possible occupiers of such farms, by enabling men of smaller capital to undertake the business. A given amount of capital in the hands of a farmer will go further—in the sense that he is able to undertake a larger farm, where he is only required to provide a sufficiency for the ordinary farm improvements—than if he has also to effect permanent improvements and to purchase, in addition, the outgoing tenant's interest.

The existing prevalence of yearly tenancies, in England and Wales, is due even more to the unwillingness of tenants to take leases (owing to the uncertainty of the future and the continued fall in prices of late years), than to the refusal of landlords to grant them. It is probable that the larger tenants would be no more ready to have their rents determined by an external authority for a fixed

term of years, than they are to take leases of the same length. If judicial rents had been fixed a few years ago, the tenants in the greater part of England would have suffered far worse than they have in the interval. The determination of judicial rents in England would be far more difficult than in Ireland; for in England they must necessarily, under present circumstances, be rack-rents, while in Ireland they are in the nature of rent-charges. Is it, again, to be laid down as a general proposition of law that no owner of land, in the future, is to be allowed to let the land to another person for the purpose of cultivation, without conceding fixity of tenure and judicial rents? Is it to be conceded that tenants who, only two or three years ago, entered upon their holdings on yearly tenancies, are already entitled to perpetuities?

Lastly, it must be added that the conversion of the tenant farmers of England into co-owners would do nothing to solve the most serious difficulty of the system—namely, the absence of small holdings, whose occupiers would form a link between the labourers and the large farmers. On the contrary, it would stereotype the existing state of things, so far as the size of farms is concerned, and make it far more difficult to effect a change in the interest of labourers.

It must be concluded, then, that an extension of the principles and method of the Irish Act and of the Crofters' Act, generally to England and Scotland, cannot be supported by any arguments founded on historic claims, on customary conditions, or on clear economic advantages, as was the case with these Acts; and that,

unless we are prepared to make an inroad upon existing rights, far different in quality and extent from those involved in these Acts, we cannot look for any land tenure reform for England and Scotland in this direction.

#### LAND PURCHASE FOR ENGLAND.

The next question is to what extent, if any, the credit of the State can be employed through the medium of loans, on favourable terms, to multiply ownerships, and especially small ownerships, of agricultural land, in England and Scotland? The question is twofold — the one, whether it is possible to convert by such means existing tenancies, whether large or small, into ownerships, after the example and precedent of the Irish Land Purchase Acts ; the other whether, by the purchase of estates *en bloc*, through the agency of local authorities, and by breaking them up into smaller lots, and reselling or reletting them, a class of small owners or small occupiers can be artificially re-created ?

It has been shown that the recent Small Agricultural Holdings Act aims at both these methods. The question arises, then, whether they will be successful, and whether they are likely to effect any substantial change in the condition of rural districts. It will be obvious that the first of these processes is an easy one compared to the second. The conversion of existing tenancies into ownerships, through State loans, is simple enough compared to the process of buying estates, cutting them up, and reselling them. It will also be



admitted that an even stronger case exists for giving facilities to English tenants to become owners of their holdings, than in the case of Irish tenants ; for the former have not obtained the concession of fixity of tenure, putting them on a level with their landlords as co-owners of the land. There can also be no objection in principle to making use of State credit for this purpose. There are, however, practical difficulties and limitations in the carrying out of such a policy in England and Scotland, which do not exist in Ireland.

The first and main difficulty in the cases of England and Scotland is the general high average size of tenancies, with the consequence that a very large advance of money, by way of loan, would effect but a small change in the tenure, and in the economic condition of the cultivators of the soil, as compared with what a similar sum will effect in Ireland. An average farm of 200 acres in England has a rental value of about £200 a year, and this at only twenty-five years' purchase—at least eight years less than the rate a few years ago—represents £5,000. To convert a thousand such holdings into ownerships would involve, on the principle of the Irish Acts, £5,000,000. To create one such ownership in each rural parish would mean an advance of over £60,000,000. The annual value of agricultural land in England alone being £42,000,000, a year, even at the present reduced rents, the sum of £100,000,000 would go a very little way in producing a change in tenure of any importance. The Small Holdings Act has recognised this, and has very properly limited such advances to



farms with a rental of not more than £50 a year. It has already, however, been shown that the number of such holdings in the occupation of persons living wholly by the land, is small in the greater part of England and of Scotland. There could be no great public object concerned in the lending of money for the purchase of their holdings by persons living mainly by other occupations—such as tradesmen—or persons with other private means. Of the comparatively small class of occupiers of land, living wholly by their holdings, of fifty acres and less, a very small number would probably be able to come to terms with their landlords for the purchase of their farms.

Nor are the terms offered by the State so attractive as to be a great inducement to tenants to avail themselves of such facilities. The proportion of the purchase money which may be advanced is four-fifths. The rate of interest charged is £3 2s. 6d. per cent. The term of repayment is forty-nine years. The annual charge, therefore, is £4 2s. 6d. per cent. A well-secured rent of a small holding will probably not be sold by its owner for less than twenty-eight years' purchase, including a reasonable sum for costs. In the case, then, of a holding rented at £50 a year, the purchase money would be £1,400. The State would advance £1,120, and the annual charge on this for forty-nine years would be £46 4s., or very little less than the previous rent; while the tenant purchaser would have to pay down £280 of the purchase money. It is to be feared that very few tenants of small holdings will be in a position

to do this. The terms, as compared with those which the Irish tenants have obtained, are very unattractive, in part because the landlord's interest can be bought in Ireland at eighteen years' purchase, as against twenty-eight in England; in part because the rate of interest charged by the State in Ireland is somewhat less; but mainly because in the Irish case the State advances the whole of the purchase money. It will be obvious that the State could not with safety advance the whole of the purchase money in England. The transaction is reasonably safe in Ireland, because the tenant's interest, as a rule, is of considerable value—seldom less than seven or eight years' purchase of the rent, and often as much as twelve or fifteen times the rent, and thus forms a margin of security for the advance from the State; but in England there is no such value attaching to the tenant's interest, and no ordinary lender would advance on mortgage more than two-thirds of the purchase money. The Act has in fact gone beyond what any prudent lender would do in allowing the advance by the State of four-fifths of the purchase money. If transactions of this kind had taken place ten or twelve years ago, before the agricultural depression had commenced, and before the great fall of rents, it is certain that the purchasers would, by this time, be in very great difficulties, paying to the State, for interest and instalments, twenty or thirty per cent. more than the average rent of the district, besides having had to advance a portion of the purchase money. It is quite uncertain whether we have touched the bottom of rents, and one-fifth of the

purchase money is a very small margin for any mortgagee. It may confidently be expected, however, that the transactions under this provision will be few and far between, and that no practical result will follow from its adoption on the general condition of ownership or tenure of land. Nor is it reasonable to expect that the State can improve the terms by advancing the whole of the purchase money, for in such case the annual payments would be more than the previous rent, and there would be no margin of security for the loan.

#### THE SMALL HOLDINGS ACT.

It remains to consider the second method of creating small ownerships, by the means of State advances to local authorities, who are empowered to purchase properties *en bloc*, and resell them in small holdings. The question is whether this artificial creation of small ownerships under the Small Holdings Act of 1892 is feasible and practicable, and whether this scheme is likely to produce any sensible effect on the condition of land ownership and small holdings in rural England.

For the object in view there is general sympathy. In these days, everyone professes the greatest desire for the extension of the class of small owners of land. Lord Salisbury avows his political motive for such an extension, though little believing in its economic success. Mr. Arthur Balfour has expressed a passionate love for such a class. It will be admitted also that the object is one of a sufficient national importance to justify the use

of State credit, for the purpose; on a considerable scale, if it can be carried out so as to produce an adequate result, and with due security to the State and to local authorities.

The important questions remain, however, whether local authorities are likely to avail themselves of the facilities afforded by the Act, whether their powers will be sufficient to effect the object, whether they can do much without serious loss, and whether the agricultural labourers, for whose benefit the measure is mainly intended, as a means of raising them in the social scale, are likely to avail themselves of it, in the manner contemplated.

The scheme appears to contemplate the purchase by local authorities of not inconsiderable properties, for the purpose of cutting them up into a number (1) of small ownerships, of such a size that the occupiers will be able to maintain themselves wholly by the land ; (2) of small holdings or ownerships of a less extent, which the holders will cultivate as an adjunct to their other occupations, whether as labourers or as small village tradesmen.

#### SMALL OWNERSHIPS.

The two objects are very distinct, and must be considered separately. With respect to the first class of small ownerships, where the occupiers are expected to live wholly by the land, it is obvious that the extent of the holding must vary according to the nature and value of the land ; but in the case of average arable land it can

scarcely be expected that an occupier can make a living out of less than thirty acres, or, in the case of grass land, of less than forty or fifty acres. If fruit or vegetable cultivation be contemplated, the area may be less, but the value of the land will be relatively greater.

To make an experiment on any scale worthy of the Act, and so as to produce any effect, we must presume that the local authority will desire to purchase a property of such a size, as will enable them to cut it into twenty or thirty lots. A property of 600 acres might be cut up into twenty lots of thirty acres each. It may be quite possible in parts of rural England at the present time to purchase an estate of 600 acres without tenants, and at a low price; but the derelict farms, of which we hear in the East of England, are generally in a miserable and neglected state of cultivation, requiring a great outlay of capital, and such that the experiment would not have a fair chance of success.

As a general rule, and in ordinary times, it would not be easy to secure a suitable estate of 600 acres, without a tenant or tenants, and the county authority would find that it would have to give a fair, if not a full, price for the property as agricultural land—say, twenty-eight times the rent of it, which may be assumed to be about £1 per acre. For the sum, then, of £16,800 the authority might purchase an estate of 600 acres. It would then have to buy the timber on the land at a valuation, and the legal costs of the purchase would probably be not far short of a year's purchase of the rent.

Having bought the land, it would be necessary for the



local authority to get rid of the existing tenants. These persons must be dealt with generously, if it be not desired to arouse a feeling in the neighbourhood against the scheme. They must be very fully paid for their growing crops, agricultural improvements, and unexhausted manures. Having got rid of the tenants, it will then be necessary to lay out the land in small farms of thirty acres each. This will not be an easy task. New roads and new fences must be made; new houses and farm buildings must be erected. All this will take time, and will involve considerable expenditure. Meanwhile, the cultivation of the land must be carried on. The authority must buy the farm stock and implements of the outgoing tenants. It must employ a bailiff to carry on the operations of the farm, or of such parts of it as may not be sold at once. It will probably turn out that a part of the property will be quite unsuited for small holdings, and must be resold at a reduced price, or relet to adjoining owners or farmers. It will certainly prove that all the land will not be equally suited for small holdings. The better lots will be let first; the remainder may remain on hand for some time. All these operations will involve a considerable outlay of capital on the part of the authority, and a not inconsiderable risk. A proportional addition, to meet this outlay, must be made to the price asked from the new purchasers. It will be admitted that there is no more difficult operation than that of cutting up a large farm into a number of small holdings, so as to make the best of the land, and to average the holdings, as far as possible, and to tempt

purchasers. For this purpose it will probably be necessary to employ and pay a special agent—some experienced land surveyor. A mistake in making some of the small holdings unprofitable and unsaleable would cause great loss in the result of the venture to the authority. The water supply may cause difficulty. New wells will have to be dug, or new ponds made. The more such a process is considered, the more difficult it must seem for local authorities to undertake it, and the more sceptical one becomes of their attempting it on any such scale as to produce any effect upon the condition of land ownership, or of their carrying it through without considerable loss.

Let us suppose, however, that the difficulties are overcome, and that the property has been bought, and laid out and cut up into suitable holdings, that small houses and farm buildings have been erected, and roads and wells made: it remains to be considered how the transaction will present itself to intending purchasers, and what number of labouring men are likely to be in a position to avail themselves of the advantages offered.

The proportionate price of a thirty-acre lot, on the assumptions already made, will be £840. To this must be added the cost of erecting the farm buildings, and the share of other expenses incurred by the local authority. It is difficult to believe that the addition can be less than one-third of the purchase money, or £280. It is more probable it will be one-half. At one-third, the price of the small holding will be raised to £1,120. Of this the purchaser is expected to pay down one-fifth, or

£224. Of the residue, £896, one-fourth may be left subject to a permanent rent-charge, and on the remaining three-fourths the purchaser is to pay interest at the rate of three and one-eighth per cent., and instalments, so as to repay the principal in fifty years. It will be found that the annual payments will be £34. Beyond this, the purchaser will have to pay the Tithe and the Land Tax.

The buyer, however, will also have to provide money for the purchase of implements and stock, and of the growing crops and unexhausted manure on so much of the arable land as he acquires ; he must also have something to live on till the farm returns him a profit. £6 per acre would seem to be the smallest amount which a tenant of thirty acres should commence with. The purchaser, therefore, must be able to produce about £400 in cash, and he will have to pay in interest and rent-charge £34 a year, as compared with the previous rent of £30 a year. It cannot be said that the terms are attractive. It is to be feared that there are extremely few men in the condition of labourers, or even sons of small farmers, who are in a position to produce £400, or anything approaching it; and it is to be expected that those who have this amount of money will generally prefer to hire a larger farm of 70 or 100 acres, where they will be tenants only, or to emigrate to some new-settled district, where they can buy a farm of 200 acres for a few pounds only, rather than encounter the very hard work of making a living as owner out of thirty acres of land in England.

It may be that in some districts persons in a somewhat superior position to agricultural labourers will be found, willing to come forward, with sufficient means to purchase small holdings, on the terms indicated—such as village tradesmen, rural craftsmen, and the like ; but the object of the measure is to raise the status of labourers, and this object will fail if a superior class alone are able to avail themselves of the small holdings. It would certainly be desirable that, before embarking on such a scheme, involving considerable risk, the local authority should ascertain how many persons, in the position of agricultural labourers, are prepared to come forward with cash for the payment of one-fifth of the purchase money, and with sufficient means to stock the holding and to live till they can get a return from it. It must be recollected that the cultivation of a small holding—“*la petite culture*,” as the French call it—is an art which in some countries, where small holdings have existed for generations, is widely spread, but which, when lost by the consolidation of farms, and the aggregation of land into few ownerships, is not easily acquired again. It necessitates the most minute attention to details, the most laborious devotion to the land, the co-operation of the wife and children, and an industry and labour beyond that of ordinary farm labourers, working for weekly wages. It is to be feared that in most parts of rural England there are but few men, who have the experience, which will enable them to cultivate these small holdings, and to make their living out of them, in a manner, which will be profitable to



themselves, and so as to secure the local authority against loss.

All the evidence given before the Committee on Small Holdings points to the difficulty of finding persons in most parts of England in the condition of agricultural labourers, or even of a superior class, ready and willing to take such holdings, with the object of making their living out of them, and with sufficient means to advance one-fifth of the purchase money, and to purchase implements and stock.

Lord Wantage, as chairman of the Small Farms and Labourers' Land Company, gave some interesting evidence before the Committee on this point. The company was formed for the purpose of buying estates and reselling them in small lots to labourers. It has bought four estates: that of Lambourne, in Berkshire, of 411 acres; that of Foxham, in Wiltshire, of 152 acres; the Cottenham Estate, in Cambridgeshire, of 115 acres, and the Hay Farm in Essex, of 70 acres. It has endeavoured to resell the land in small plots, on easy terms of payment—namely, a deposit of 10 per cent. only of the purchase money, and half-yearly payments of the remainder, with interest in equal sums spread over twenty years—terms more favourable, so far as the proportion of present payment is concerned, than those offered under the Small Holdings Act. The experience of the company, which is carried on with public objects, but with the hope also of making some return in the shape of interest on its capital, has not as yet been satisfactory in creating small ownerships. It



has found great difficulty in disposing by sale of portions of its land. Of the Lambourne property, two lots only have been sold, consisting of nineteen acres, at £21 per acre. Of the Cottenham property, nine acres of pasture have been sold at £70 per acre, and two acres of arable at £50 per acre, to a single purchaser. The remainder of the land has been let to eighteen tenants in plots of from one acre to five acres.

It is stated that there are sixty-eight tenants of small holdings on these estates. Very few of the persons who have taken them appear to be agricultural labourers. They are mostly small village tradesmen, who do not intend to make a living wholly by the land—village blacksmiths, bakers, wheelwrights, builders, carriers, and publicans. Lord Wantage accounts for the absence of demand for purchase in this way:—"I think there are two schools, so far as I can see, among the labourers. Taking one man, whom I urged to purchase, I have said to him: 'I am astonished you do not purchase;' the man replied, 'I think I can make more by hiring land. Suppose I have a couple of hundred pounds, and I buy some sheep and some implements and stock-in-trade, I can do better by expending my money in that way. I can get 5 per cent. in the one case, and perhaps I should get 3 per cent. in the other. I can do better by hiring than I can by purchasing.' Then there is another school, who are represented by Mr. Warrack (the purchaser of one lot of the Lambourne Estate), who say, 'I am doing better by having purchased the land. It is my land, and I am improving

it.' As a rule, English tenants prefer to hire—they think they can do better."

The Company has a paid-up capital of £10,000. It also owns the Lambourne Estate, valued at £3,200, the gift of Lord Wantage. In spite of this generous aid, it has been able, during the last two years, to pay dividends of only 2 per cent.

The experience, therefore, of the company is not very encouraging to those who desire to see small ownerships multiplied. From the difficulty it has had in selling its land, it has been unable to turn over its capital and to purchase other properties. It has become, in fact, the landlord of a numerous small tenantry on the three properties which it has bought. Though much benefit may result from the multiplication of small tenancies, it appears that few labouring men have taken advantage of the opportunities thus offered, but rather the class of small village tradesmen.

The conclusion forced upon one by a consideration of the whole case is, that very few men of the class of agricultural labourers, or indeed of any other class, will be found able, and still fewer willing, to advance one-fifth of the purchase money for the purpose of purchasing small farms, of from thirty to fifty acres, with the intention of making a living wholly by them, that the Act in this respect will prove to be almost a dead letter, and that, if put in force, it will almost certainly lead to financial loss to the local authorities who attempt it.

This part of the Act is free from any difficulty arising from the want of power conferred on local

authorities to take land by compulsion. As the owners of the small holdings, created under it, are expected to make their living out of them, and are to be provided with houses, it is not of great importance where the land is situate; and there can be little doubt that somewhere within the limits of its authority, every County Council will be able to buy an estate suitable for the purpose.

## SMALL TENANCIES.

It has already been pointed out that the Small Holdings Act also contemplates local authorities purchasing land for the purpose of letting or leasing to labourers, and others, small holdings not exceeding in extent fifteen acres, or £15 a year in value. They may also sell land to this extent, upon the terms already described, without the obligation that the holders are to make a living out of it. The Act appears to assume that the holders of land of this extent and value will not be able to make their living out of it. The land, therefore, must be held as an adjunct to other occupations, whether as labourers or as village tradesmen. In the case of labourers, the measure appears to be in the nature of an enlarged Allotments Act. Under those Acts allotments are restricted to one acre each. Under the Small Holdings Act it will be possible for the local authority to let up to fifteen acres; but it is scarcely to be expected that labouring men will be able to cultivate or to stock more than three to five acres at most. More than this they cannot manage while they remain labourers, nor

can they make a living wholly out of so little as fifteen acres of average farm land, valued at £15 a year. If any lettings of more than three or five acres are made, they will probably be to village tradespeople.

On this point it may be well to quote from a letter to the *Times* from Mr. W. H. Hall, a well-known landowner in Cambridgeshire, who has been deeply impressed with the importance of multiplying small holdings of land, and who has endeavoured to create them on his own property :—

“On my own estate,” he writes, “where I have for many years been slicing small holdings off large farms, I have only one small holder who does not combine some other business with farming. Of very small holders, two are village postmasters, two are millers, one is a master bricklayer, one is a gamekeeper, one a publican. They are, in fact, men who mostly require to keep one or two horses, or a pony, for purposes of some trade, which neither absorbs their whole time, or the whole strength of the animal they keep. It is ruinously expensive work for the landowner who establishes small holdings. To keep an animal of any kind the small holder necessarily wants a stable, and the stable implies a yard to make manure in, and the yard wants fencing, and at least one gate. Then he soon wants a shed in his yard, with a manger and a water-trough, and perhaps a well has to be sunk to supply the trough. Presently he will require a pig-stye and a place to mix and keep the food for the pigs and the cow. Then he will want a meadow to turn his animals into, and that meadow will often (in East Anglia) have to be sliced off a large field, and specially laid down in grass for him. All this requires large outlay of money, time, and thought. Fencing the land is the smallest part of it; but providing the buildings and all the necessary accessories is where the shoe pinches. I have, with the best will in the world, worked hard for a dozen years at this business—an exceptionally uphill one, I admit, in



this rainless region—of establishing small holdings, and have arrived at eight or nine. I am bound to say I get my rent punctually from all.” \*

Speaking with his experience that the demand for small holdings comes rather from the small village tradesmen than from labourers, he points out that the measure “has never been put forward as a measure intended to facilitate the acquisition of land by small tradesmen; but has always avowedly had for its object the advancement of agricultural labourers. Will the local authority be more successful than I have been? Even supposing the possibility of a local authority consisting of a majority of labourers, I do not believe that, even in that extreme case, they will be induced to pledge the rates for the purpose of setting up some of their fellow-labourers as small holders.”

That there will be a considerable demand for small holdings up to fifteen acres from village tradesmen and rural craftsmen, who have other occupations, and who desire to cultivate a few acres in conjunction with their business, cannot be doubted; but whether the local authorities will think themselves justified in acquiring land for the purpose of supplying the wants of people in this position, unless they can very largely benefit also the class of labourers, for whom the Act was mainly intended, may be greatly doubted.

On the other hand, there is reason to think that if land is offered in small lots, from one acre up to five acres on a certain tenure, not involving any immediate

\* *The Times*, Feb. 1, 1890.



advance of capital for its purchase, but with the power to purchase in the future, or to obtain fixity of tenure, with the right to erect a house upon each holding, there will be found to arise a considerable demand for such holdings from persons in the position of labourers, or just above them, to whom the certain possession of land, with the power of becoming the owner of a home, will be the strongest possible inducement to lay by money to build the house and to provide the other necessities of a small holding. There is an interesting case of this kind referred to in the Appendix to the Report of the Royal Commission on Agriculture, of 1881, by Mr. Little, one of the Sub-Commissioners. It appears that many years ago Sir Thomas Acland let a considerable area of waste land, called Penstrace Moor, in Cornwall, to a number of miners at a low rate. It consisted of 478 acres, and it was let on leases for three lives to seventy tenants, averaging between six and seven acres each, and ranging from one acre to ten. The tenants, who worked in the neighbouring mines, reclaimed the land, and built houses upon these plots, above the general average of labourers' houses in the district. The land was originally worthless. It is now rated at £1 per acre. The stock on it is of a superior character, and in quantity double that of the average of Cornwall. Mr. Little says of this community :—

“Those who are employed in the mines work in night and day shifts, and they utilise their spare hours on their farms; the wives and the children, however, do most of the farm work. The family have a much more comfortable house, and many

advantages—such as milk, butter, and eggs—which they would not otherwise enjoy. The man has a motive for saving his money and employing his spare time, and if he does not gain a large profit as a farmer, he enjoys a position of independence; he is elevated in the social scale, his self-respect is awakened and stimulated, and he acquires a stake and interest in the country.

. . . It is most valuable as an instance where the opportunity of investing surplus wages and spare hours in the acquisition of a home for the family, an independent position for the labourer, and provision for the wife and children in the future, has been a great encouragement to thrift and providence. The holdings represent so much time well spent, which, without this incentive, would have probably been wasted; and wages, which would otherwise have been squandered, are employed in securing a homestead, and some support for the widow and children when the workman dies. I would ask, ‘Are there not many places where the same thing might be done if the opportunity offered?’ Every thoughtful employer of labourers, who has ever attempted to impress upon his workman the duty of saving, must have experienced a difficulty in suggesting to them any object which will appeal with sufficient force to the imagination and sentiment to overcome the habit of spending all that is earned.”

Another case of a somewhat similar character is to be found on the borders of the New Forest. Twenty-five years ago a public-spirited landlord sold a tract of land to some thirty-five labourers. In process of time a certain proportion of these have been obliged to sell, and now rent what was once their own property. But the majority have lived and prospered. The average is five acres apiece. The soil was poor—only from four to eight inches deep. By good cultivation it is now increased to twelve inches. With abundance of manure and chalk it is found to yield well. The land is used partly for

market gardening and partly for dairying. There are from one to three cows on each holding; pigs are kept in large numbers. Most of these small owners and tenants work for wages elsewhere during parts of the year.

It is in the promotion of such small occupations of land, suitable for labourers, whether employed on agricultural or other industries in rural districts, that we must hope for any considerable result from the Small Agricultural Holdings Act.\* The tenure must be a certain one, so as to give the sense of permanency, and to offer every inducement to the holder to save his money and to lay it out in building a cottage or in other improvements. A letting of land by the year, as in the case of allotments, will not supply this motive. It must be realised that allotments, especially under mere voluntary arrangements, in the hands of the landowner of the district, liable to be withdrawn if the labourer should give dissatisfaction, do not, however beneficial in many respects, afford any sense of ownership, of permanence, of independence, of citizenship, which alone will operate in raising the status of the labourers, and act as an inducement to them to remain in their villages. Neither will improved cottages held, at the will of the landlord, at low rents, have the desired effect.

\* So far as any proceedings have as yet been commenced under the Small Holdings Act, the applications have been for holdings of the kind above indicated. In Lincolnshire (Holland Division) sixty-two persons have sent in applications for holdings amounting in the aggregate to 360 acres, an average of about six acres to each person. It is stated that local inquiries are about to be held by the County Council to ascertain the *bona fides* of the applicants.

On this point we have the testimony of a writer who, more than anyone of the present generation, understood the feelings of the rural labourers, sympathised with them, and appreciated the facts of their condition—the late Mr. Richard Jefferies. Writing of Wiltshire, where he resided, he said—

“Ten years ago it was proposed to fix the population to the soil by building better cottages and giving them large gardens and allotments. This was done. Yet now we see, ten years after, that, instead of fixing the population, the population becomes more nomad. There seems but one explanation—that it is the lack of fixity of tenure. All these cottages and allotments have only been held on sufferance, on good behaviour, and hence they have failed. The labourer has no fixity of tenure. He does not care to lay himself out to do his best in the field, or for his master, because he is aware that service is no inheritance, and that at any moment circumstances may arise which will lead to his eviction. All the sanitary cottages erected at such expense, and all the large gardens, and the allotments, have failed to produce a contented and settled working population. You cannot have a fixed population unless it has a home. There appears no possibility of amelioration of this condition until they possess settled places of abode. Till then they must move to and fro, and increase in restlessness and discontent. Till then they must live without hope of growth in material comfort. . . . A race for ever trembling on the verge of the workhouse cannot progress and lay up for itself any savings against old age. Such a race is feeble and lacks cohesion, and does not afford that backbone an agricultural population should afford to the country. . . . I think it would pay every landowner to let all the cottages upon his property to the labourers themselves direct, giving them security of tenure so long as they pay their rent, and with each cottage to add a large garden of two acres at an agricultural rent. If, in addition, facilities were to be given



for the gradual purchase of the freehold by the labourer, it would be still better. I think it would turn out for the advantage of landowners, farmers, and the country at large to have a large settled agricultural population." \*

It will be obvious that purchases of land by local authorities with such objects as these—namely, of creating a number of small holdings suitable for labourers and others of their class, and averaging 2 to 5 acres each—will be much more feasible transactions, involving much less outlay of capital, and attended by much less risk, than the purchase of properties for breaking them up into small farms of from 20 to 50 acres each, and, in proportion to the expenditure, will benefit a much larger class. The purchase of 50 or 100 acres in the neighbourhood of a village would supply from twenty to thirty such holdings, and, assuming the price to be reasonable, the financial risk to the local authority would be small. It is scarcely necessary to point out that a given advance from the State will provide funds for a very much larger number of the smaller holdings than of the larger. It has already been shown that for holdings of 30 acres the average advance by the State will be nearly £900 each. An advance, therefore, of £11,000,000 will provide funds for no more than a single such holding in each of the rural parishes in England alone—a very inappreciable effect upon the agrarian condition. The same advance would provide for acquiring eight times as many of the smaller holdings, averaging 4 acres each, and suitable for labouring men. A grave

\* "The Wiltshire Labourer," *Longman's Magazine*, November, 1883.





difficulty, however, must arise in carrying out any such schemes under the Small Holdings Act as it stands—that of obtaining land suitably situate for such purpose.

## COMPULSORY PURCHASE.

It has been pointed out that in the case of larger holdings, where the occupier is expected to live upon his land, and to make his living wholly by it, their situation is not a matter of so much importance, and the local authority may select a suitable property out of any that may be in the market in any part of its district; but in the case of the small holdings, suitable for labourers and others, which are to be held as adjuncts to their other occupations, and not to be the main or only source of living to them, and where, in the first instance at all events, the occupiers will have no residence upon them, but will live in their present cottages, it is, of course, essential that such holdings should be conveniently near to the villages, where the labourers and others live. If this be not the case, they will wholly fail in their object. The local authority, therefore, must purchase land for such a purpose near to the village from which the application comes.

This will be no easy matter, if not an impossible matter, in a great number of cases, and probably in the great majority of cases. If it be conceded that this policy of promoting and encouraging the independence of labourers, by enabling them to obtain small holdings with fixity of tenure, and by giving them the opportunity

of erecting their own homes, be important in the public interest, it must be admitted that it will be most important in those parishes and districts where, at the present time, the land and the villages on it are absolutely in the ownership of a single proprietor, and where there is no possibility of any outsider being able to become the owner of his home, or of any land, however small in quantity, or to acquire any permanent interest in it.

It has already been shown that in a large proportion of the rural parishes, probably one-half, this is the actual condition of things, and that in large numbers of others the land and the houses are divided between a very limited number of owners. All the social forces in rural districts, it must be admitted, tend towards this concentration of property in few hands. Within the ring fence of his property, whether it be a great property, extending over many thousands of acres, or a moderate one of 1,000 or 2,000 acres, the owner desires to be supreme, and to be landlord both of the land and the houses in the adjoining village. It will not be an easy matter to reverse this, and to introduce a new principle, almost unknown to the English social system in rural districts, of independence, of multiplied small ownerships, and of small peasant owners or occupiers with fixity of tenure.

It has been assumed that, in the present depressed condition of agriculture and low value of land, the land-owners will be ready and anxious to sell land, for the purposes of the Small Holdings Act. It is very probable that many will be willing to sell outlying properties, suitable for conversion into holdings of the larger

class ; but will they be equally willing to sell land in the centres of their properties, close to the villages which they own, for the purpose of creating small colonies of independent owners or of occupiers with fixity of tenure ? To men brought up in the present system of landownership in rural districts, nothing could be more at variance with all their traditions, and all their ideas of their position and functions, and of the enjoyment of their properties, than that they should consent to create colonies of independent occupiers of land, within the limits of their ring fences, and close to the villages where they are now paramount. The last to entertain such a proposal will be those who best fulfil the ideal of the present system, whose cottages are in the best order, and whose allotments of land to their labourers are ample and sufficient. These will be the least able to understand the principle of independence and security of tenure ; for the whole system in which they live and move, and for which they have expended labour and money, is based on the opposite principle of dependence, and of instability of tenure to all but themselves.

The question is not merely one of sentiment ; it is also one of pecuniary interest and value. It may be tested in this way : Would the trustees of a property, consisting of 2,000 acres or more, in a ring fence, and embracing the whole of a parish, or the greater part of one, and including one or more villages, feel justified, before offering the property for sale in the market, in consenting to the sale of 50 to 100 acres, surrounded by their property, and near to the village or villages, for the purpose of founding a class of independent owners or leaseholders ?

The question was answered by a member of an eminent firm of land agents in a letter to the Press during the discussions on the Small Holdings Act :—

“My firm,” he said, “has on its books for sale a considerable number of landed properties of from 1,000 to 10,000 acres or more. In most of them the land lies together, and many of them consist of a whole parish, or of two or three adjoining parishes. It cannot be expected that in these cases the vendors will be willing to sell to local authorities 50 or 100 acres, in the midst of these properties, near to the villages, for the purpose of creating a number of small freeholders or leaseholders, as contemplated by the Small Holdings Bill now before Parliament. The entirety of a property within its boundaries is a great attraction to purchasers. The planting of a number of small freeholders in the midst of it might greatly interfere with the amenities of the estate, as they are generally understood, and with the sporting rights over the same. We have many other smaller properties for sale, of 100 to 1,000 acres. Most of these are of a residential character, where we could not advise vendors to sell off part for the creation of small ownerships. . . . It must be recollected that, except in the east of England, where the agricultural depression has been severe, there are very rare cases of purely agricultural land for sale, which are not in the hands of tenants. In writing this, I desire to express no opinion as to the policy of the proposed measure.”

It would be interesting to know what view the courts of law would take of a proposal to sell land in the centre of a property under their control, for the purpose of creating a colony of freeholders or leaseholders, and where the transaction is opposed by some person interested, on the ground of its interfering with the amenities of the whole property, and therefore



with its selling value. In the recent case, already alluded to, of the sale by the sanction of the Court of the great Savernake estate consisting of 36,000 acres and the whole of ten or twelve parishes, and villages containing over 1,000 cottages, what view would the Court have taken of a proposal to sell fifty or sixty acres in each parish for the creation of a number of independent leaseholders? Would a purchaser have been found for the whole estate, subject to such a previous sale of so many patches cut out of it, interfering with the full power of the new owner over all and everything within this great dominion?

If there should be difficulty on this score when the owner is parting with the estate, and when the expediency of the sale of portions of the property within its boundaries, for the purpose of creating small occupiers with fixity of tenure, is merely a question of money and of price, how far more difficult will it be to persuade owners of such properties, who have no desire to part with the whole of their property, to sell portions for such purposes? The objection that the sale will reduce the amenities of the whole property, and will interfere with the sporting rights, will be raised in the great majority of cases. Here and there an enlightened owner of a great estate may be willing to allow the experiment to be tried, and may perhaps impose conditions on the county authority to minimise the possible detriment to his property; but as a general rule it is certain that very great, if not insuperable, obstacles will be found by local authorities, who desire to put the Act in motion, in buying land in suitable positions.



Let us suppose that a petition comes up to a County Council, in the direction contemplated by the Act, from a number of labouring men and others in a parish or adjoining parishes, pointing out that they are desirous of obtaining small holdings, either as owners or leaseholders, in the manner provided by the Act, and showing that in consequence of the state of landownership in the district it is impossible for them ever to hope to get the land otherwise. Supposing, on inquiry, the local authority are satisfied as to the reasonableness of the request, but find that they cannot persuade the great owner of the parish or district to sell any of his land, suitably situate, near to the village? What course are they then to pursue? It will be no answer to the petitioners that they can have small holdings in some other part of the county, or that an experiment is being tried elsewhere, and that they must wait to see the result. The position will be scarcely less difficult where, instead of all the land in the parish being in the possession of a single owner, it belongs to five or six different persons, all of whom are unwilling to sell. Each owner may consider that his neighbour, rather than himself, ought to be prepared to sacrifice his interest for the benefit of the labouring people of the district.

It would seem, from the above considerations, that the Act, in this respect, is doomed to almost certain failure, precisely in those districts where it is most required, on the very assumptions which have led to its passing; and that the power to take land by compulsion, at a price to be arrived at by arbitration in some easy manner, as under

the Allotments Act, will be essential, if any transactions to an extent worthy of an experiment are to be hoped for and realised. Even with compulsion it will be difficult, and perhaps costly, to work the Act. Under the Allotments Act, very few cases have occurred, where local authorities have purchased land for the purposes of the Act, and only a single case has arisen where the compulsory powers of purchase have been put in force; but the indirect effect of compulsion, in inducing landowners voluntarily to set apart land for allotments, has been very considerable.

It may be claimed that a similar indirect result will follow if compulsory powers of purchasing land are given to County Councils, for the purpose of giving effect to the Small Holdings Act. It must be recollected, however, that there is a great distinction between allotments, and the transactions contemplated by the later Act—namely, the extension of small holdings with more or less of security of tenure. The setting apart of allotments for the labourers in no way diminishes the powers of the landowners; on the contrary, it rather increases them, for it makes the labourer dependent on the landlord for another of his means of existence. The very essence of allotments is the temporary occupation of land, terminable at the end of a year's notice at most; but the essence of the principle aimed at by the Small Holdings Act is permanency of tenure, to be arrived at by facilitating either ownerships or tenancies with fixity of tenure; and it is precisely this principle of fixity of tenure, which will be to the landowners the

gravest objection to selling their land to local authorities for this purpose. It is scarcely probable, then, that the indirect effect of compulsion in the case of the Small Holdings Act will be considerable, except in the direction of inducing landowners to let land for allotments, more freely and of greater extent than is generally the case, and perhaps also to increase the number of small holdings on their estates, but without fixity of tenure.

It is certain, then, that the multiplication of small ownerships and occupations of land with fixity of tenure, in lots suitable for labourers and others, so as to create a spirit of independence, and to raise their status, by the process contemplated by the Small Holdings Act, can only be effected, on any scale, sufficient even for an experiment, by the adoption of compulsion. Without this the Act will certainly be a dead letter, and even with it, will be difficult to work and slow in its operation.

In review, then, of the Small Holdings Act, it must be concluded :

(1) That so far as it contemplates the creation of a class of occupying owners of land of fifty acres and under, or of £50 rental value and under, where the occupiers are expected to make their living wholly out of the land, there is little reason to expect any substantial result, and that the operation of buying properties and cutting them up into farms of this kind must be attended with great risk of loss to local authorities.

(2) That the part of the Act from which there is best reason to hope for substantial result, is that

aiming at the creation of small tenancies, with fixity of tenure, of from one acre to five acres and upwards, which may be held by labourers and others as adjuncts to their other employments.

(3) That this will involve the purchase of land near to the villages, where these labourers and others live, and that there is little hope of obtaining such land unless power to purchase it by compulsion be conferred on local authorities.

(4) That the fear of the use of compulsory powers may have the effect of inducing some landlords to act voluntarily in the direction aimed at by the Act, without the intervention of local authorities.

## CHAPTER XI.

### REFORM OF LAND LAWS.

#### LAND IN MORTMAIN.

It remains to consider whether any other methods are open to the State of facilitating and promoting, what is now admitted on all hands to be of national importance—namely, the multiplication of small occupations and ownerships of land, so as to afford opportunities to labouring men to rise from their status to the higher ranks in the social scale of farmers, and to give to them a sense of greater independence and of permanency in their homes.

There are two directions in which it seems possible to proceed: the one by making use of the land belonging to the State, or held in mortmain by various bodies, allied to the State, in the sense that they are not private owners of property, and are invested to a certain degree with a trust, not merely for the objects to which their funds are destined, but also for the management of their properties; the other by effecting reforms in our Land Laws, with the object of removing all those facilities and inducements which now exist, for the accumulation of land in few hands, and of giving every facility for dispersion and division.



Some action has already been taken in the first of these directions:—(1) The land belonging to the Disestablished Church of Ireland was sold to its tenants. (2) The Glebe Lands Act of 1887 directed the Agricultural Department, when selling glebes in England, to offer them in small plots to cottagers and others, where this could be done without detracting from the price. (3) The Commons Act of 1876 provided that land set apart for the benefit of the poor, as fuel allotments, under old Enclosure Acts, should not be sold, but should be let in allotments to the labouring people. (4) The Act of 1882, with respect to Charity lands, provided that where land is held for the benefit of the poor, the trustees should offer it in allotments to the labouring people. (5) The Ecclesiastical Commissioners, of late years, of their own motion, and without any direction by Parliament, have sold some of their estates in various parts of the country to their tenants, taking 15 per cent. in cash payment, and spreading payment of the remainder over twenty years.

The policy, therefore, of making use of public property, or of property under trust for public purposes, has been distinctly adopted in several directions with varying degrees of success. It is obvious that this policy is capable of considerable extension. The amount of land held in mortmain in England is very large. It is believed that in the aggregate not less than 2,000,000 acres are in this condition, and in the ownership either of the Crown, or of the Church of England, of the Universities and Colleges, of Hospitals, of Charities, and other corporate bodies.

It would appear, then, to be possible to make important experiments through the management of these estates. There was a time, not many years ago, when nearly the whole of the Church property, and the Collegiate and Charity estates, were let on leases for lives, renewable by fines, and conferring more or less of fixity of tenure on their tenants. In the case of the Church property this system has been changed within the last half century. Tenants were given the option either of buying off their landlord's interest, or of being bought off themselves, and as a result nearly half the Ecclesiastical estates were conveyed to their tenants, and the remainder became the absolute property of the Church, let at rack-rents. \*

In the case of the Collegiate and Charity properties the tenants were treated with less favour; the leases were not renewed; they were allowed to run out; and the lands are now let at rack-rents.

It is believed that an examination of the condition of these State, Ecclesiastical, and other corporate properties would show that, with a view to economic management, and to avoid the necessity of a large outlay of capital, the system of consolidation of farms into large holdings has been carried out to a much greater extent, than in the case even of the great estates of private owners.

But where property is under public and corporate management, the State has the right to expect and

\* The tenants of Church property were for the most part not in occupation of the land; they were middlemen, having leases themselves and letting at rack-rents to occupying tenants.

require that it shall be managed, with a due regard to the interests of all classes living upon it, and not with the object only of making the very utmost net income out of it. On some of the best managed of the private estates in the country, it has been found to be beneficial to lay out the land not merely in large farms, but to have many small farms also, so as to form something of a ladder by which smaller cultivators may be able to rise to higher positions.

It is not too much to expect that the great estates in mortmain shall be managed in this spirit, that facilities shall be given for small holdings, and that even security of tenure shall be accorded, with the object of effecting this. Where such estates are sold, facilities should certainly be given for breaking them up and selling them in small holdings. In the case of the glebe lands, it is obvious that the requirement of payment of the whole of the purchase money has been an absolute bar to the objects aimed at by the Act—namely, their sale in plots to cottagers and others. They afford the opportunity of letting in small holdings with fixity of tenure, and should be acquired by County Councils with this object.

It is not necessary, however, to lay down any precise rule as to the manner in which this policy should be carried out in the case of land in mortmain. It is sufficient to point out that these lands offer opportunities in the direction indicated, and that a central commission might determine in what direction changes of management might be made. If the corporate bodies,

in whom these lands are vested, should object, or should have no means for carrying out any changes, it might be a question whether the State, or local authorities, should not take over their land, at a valuation, and relieve them of the duties and responsibilities of land-ownership.

A change in this respect would also have an important effect on the management of private estates. If it be found that the increase of small holdings, let on such terms as to secure permanency of tenure, produces favourable results, and supplies the link in the system, which will connect the labourers with the farmers, and therefore act as an inducement to the former to remain in the rural districts ; and if it be found that the cost of erecting buildings is the main obstacle to its extension, it may be worthy of consideration whether the State, on the principle of the earlier drainage loans, might not lend money to landowners for this purpose, on favourable terms, in preference to other charges.

In the present economic condition of great parts of England and Wales, it is useless to expect that any schemes for the artificial creation by local authorities of considerable numbers of small farms, can be successful. If they are to come into existence again, it will be by degrees—by the gradual division of large farms into smaller holdings.

In some parts of the country this is now taking place. In Sussex, for instance, it is stated that, owing to the depression of agriculture, there is great difficulty in letting large farms, but that small farms of from



40 to 80 acres are eagerly sought after. In one part of the county there has grown up a business, which is very profitable, of rearing and fattening poultry for the London market, on farms of this size, and where the land is mainly devoted to this purpose.

It is difficult to believe that similar developments may not take place in other directions, when we consider how vast are the demands of the ever-growing urban populations for fruit, vegetables, dairy produce, and poultry, and how enormous are the imports of these products from other countries.

If in each of the next few years a single holding of thirty acres, and four or five smaller holdings, of from one acre to five acres, were carved out of larger farms, in each of the 12,000 rural parishes in England and Wales, a very sensible effect would soon be produced on the agrarian system, and more good would result than from the artificial creation of colonies of small holdings in special districts by local authorities.

#### LAND TRANSFER REFORM.

There remains the question whether reforms in the laws relating to the inheritance, settlement, and transfer of land may not have an important effect in modifying the conditions of rural life, and in remedying the defects that have been pointed out. It can no longer be denied that the existing state of things, the prevalence of large properties and large farms, and the extinction of yeomen farmers and of smaller tenancies and



ownerships, have been largely due to the influence of our land laws, favouring the aggregation of large estates, and opposing obstacles to their dispersion, and that these forces have been supplemented by political and social influences, and assisted also by economic causes.

These influences, whether legal, political, or social, still prevail, except so far as the electoral reforms of late years have tended to reduce the political influence of great landowners. So long as these influences remain, and so long as the laws favour aggregation, their effect will undoubtedly be great, and it will be useless to re-create artificially, by the use of State loans, small ownerships, for they will in their turn be subject to the influences, which will ultimately merge them again in larger properties.

So far, the only real effort made to grapple with the question, and to free land from the shackles imposed upon it by the system of entails and family settlements, has been Lord Cairns' great Act of 1882. It must be admitted however, that this Act has produced little effect as yet—owing, in part, to the depression of agriculture, and, in part, to the necessity for investing the funds derived from the sale of settled land in the narrow list of securities which, by law, are open to trustees. On the other hand, all attempts to deal in a more radical manner with the law of inheritance, and to simplify and cheapen the law of transfer, have been defeated.

There can be no question that, under the scheme of Registration of Titles, as proposed by Lord Cairns in the Act of 1875, the cost of all dealings with land,

when once upon the register, whether by sale or (what is almost more important), by mortgage, is reduced to a minimum, and the transactions become of the simplest possible character. The necessity for examination into past deeds or former manipulations of the property is got rid of, and the actual title in the hands of the holder is reduced to a simple certificate of the entry on the register.

The difficulty in the way of its general adoption is the cost of the examination of the title on first placing it upon the register. This, of course, must be conducted on the old system, in order to justify the registrar in giving his certificate of title; and owners of property are easily persuaded not to incur this first cost.

To get over this initial difficulty, the method has been devised of registering what is called a possessory title, under which, upon a *prima facie* proof of title, the owner may get his property provisionally registered, without the expense of a full examination into all past deeds and transactions, involving cost and delay. In such case, after a certain number of years, by the efflux of time, the title becomes indefeasible, and the registrar can give a full certificate of title without further examination.

What has been aimed at by all interested in facilitating and cheapening land transfer is that there shall be a legal obligation, on all future changes of ownership, to register at least possessory titles of the properties, so that, in course of time, all titles may become indefeasible. When, superadded to this, there shall have been arranged a system of local registration in respect of

smaller properties, so as to avoid the centralisation in London of all transactions connected with the transfer and mortgage of land, there can be little doubt that all future transactions will become exceedingly simple and uncostly, and that great facilities will be given for the sale of land in small lots.

It has been pointed out that this system of the compulsory local registration of land titles has already been adopted for Ireland, under a recent Act, in respect of holdings sold under the Land Purchase Acts, and thus an important step has been taken in the direction aimed at. Why the same measure did not include properties sold under the Land Court, which practically deals with all sales of land in Ireland, does not appear. It was probably found that professional influence was too strong to admit of this extension. It is certain, however, that the two systems cannot long subsist by the side of one another, and that the simpler and less expensive system must prevail.

#### PRIMOGENITURE AND ENTAIL.

The other questions affecting our Land Laws—namely, the amendment of the law of inheritance and of the system of entails and family settlements—are of even greater importance in their ultimate bearing on the distribution of landed property. The sole object of these laws is to prevent the dispersion of properties on the death of their owners. It is not surprising, therefore, that they have this effect, and

that they have, in the past, effectually prevented the dispersion of large estates, and have acted as a continual inducement to the aggregation of others. The law of primogeniture may be described as a declaration by the State that, in the absence of a will made by the owner of land, his land ought to descend to the eldest male in the direct line of succession. In the case, however, of there being only daughters, the law prescribes the equal division of the property among them. The law of entail and family settlement, or, rather, the legal facilities for such arrangements, may be described as the means for securing a family law of succession for any number of living persons, and till the coming of age of the unborn son of the last of them, in favour of the eldest male in the direct line, so as to prevent the dispersion of the corpus of the property, either by the gift or extravagance, or under the will, of the immediate holder.

Although, by a decision of the judges given in 1847, an entail or settlement cannot be prolonged beyond the period, when the unborn child of the last of successive persons, living at the time of making the entail, comes of age, yet the system is so deftly contrived that once in every generation, when the eldest son of the tenant for life comes of age, and when it is possible for the father and son together to break the entail, there is an inducement to the son to join with his father in making a new settlement, so as to prolong the entail to another unborn generation.

It has already been explained that there was a long



period in the history of England when land was free from the trammels of entail. When, in the year 1588, it was attempted by the lawyers of the day to devise a scheme for settling land upon unborn persons, the judges refused to sanction it, giving as their reasons \* :—

(1) That the owner of the property would be prevented from providing for his widow and children, in such proportion as he might think fit.

(2) That the eldest son, being certain of his inheritance, and therefore independent of his father, would not be subject to parental control.

(3) That it would lead to complexity of title and, therefore, to uncertainty and expense of transfer.

Later, the able lawyers in the time of the great Civil War succeeded in devising a method, through the intervention of trustees, of evading the law laid down in Chudleigh's case, and of creating the system of family settlements. All the objections raised by the judges in that case have since proved to be well founded. Apart from the economic or social evils resulting from the excessive aggregation of landed estates in few hands, and from the extinction of the class of small owners, there are equally strong objections to the system from the family point of view, on account of its interference with parental control and with the power of the father to dispose of his property, with the object of making greater equality among his children.

\* Chudleigh's case 1 Rep. 131 b.



It is to be observed that there is nothing to prevent personal property being settled in the same manner as land, and with the same objects. But, generally, personal property, when subject to marriage settlements, or to trusts under the wills of its owners, is dealt with in a very different way. The usual form of marriage settlement, in the case of such property, is to the husband and wife for their successive lives, with remainder to their children in such proportion as they may appoint, and, in the default of appointment, then equally among their children. In these arrangements the parents retain full power of distributing the property among their children in such proportion as they think fit. If settlements of land were confined to similar provisions, there would be very little objection to them. As in the case of personality, they would be restricted to so much of the property only, as is considered necessary to provide for the support of the widow, and to secure some provision for the children, and the remainder would be left free in the disposal of the owner; whereas the object of the settlement or entail of land is mainly to prevent any part of the property being disposed of by the immediate possessor, either during his lifetime or by his will, among his children, and to secure that the estate, subject only to charges in favour of the younger children, shall go to the eldest son.

It is scarcely necessary to point out the economic evils of this system: that it tends to prevent the access of capital to the land, that it ties up estates for successive generations with constantly increasing family charges,

that it has been a main agent in the aggregation of land in few hands, and in preventing the natural dispersion that would occur through the accidents of fortune of the owner, or through his desire to dispose of his property equally among his children, instead of being compelled to leave it intact to his eldest son.

It has been suggested in many quarters that the best mode of remedying these evils would be to prohibit any kind of settlements or entails in the case of land, and to confine such arrangements in the future wholly to personal property. There can be no objection in principle to such a course. Lord Cairns' Settled Land Act distinguished between land and other property, and between land, in the ordinary sense of the term, and the family mansion and demesne land. It may be doubted, however, whether such a prohibition against making settlements of land would have any substantial effect, so long as such arrangements were allowed in the case of personalty. Lawyers would find the means of converting the one kind of property into the other. They might mortgage the real property to its full value or more, and settle the mortgage as personalty in family settlements. Neither does it seem to be a wise course to enact a fresh distinction between land and personalty. Again, if the only property a person owns is land—say, a small farm—it would seem to be rather hard upon the owner to say that, although a leasehold house or other personalty might be included in a marriage settlement, the farm could not be so dealt with.

The better course would seem to be to prohibit

all entails and family settlements, whether of land or personal property, otherwise than in the form of the ordinary marriage settlement—that is, to the husband and wife for life in succession, with remainder to the children, in such proportion, as he or they may appoint, and, when there is no appointment, then equally among the children. This limitation would exclude the settlement of any property on the eldest unborn son of a living person; it would destroy the main object of the family entails of land. It would also be in full harmony with such a proposal, to apply the principle to the cases of all existing family settlements, where the eldest son has not reached an age, when he has fully realised his expectation—say the age of fifteen—and to provide that, notwithstanding the terms of the settlement, the parent, who is in possession, should have power to dispose of the property, as he may think fit among his children. This proposal would be in strict accord with that for abolishing the law of primogeniture. It would seem to be a logical conclusion from the withdrawal of the State sanction to the preference of the eldest son, that there should no longer be allowed a family law of succession, in favour of successive eldest sons, and of unborn eldest sons, through the medium of family settlements. The joint operation of the two changes in respect of primogeniture and settlements would, it is believed, have a very important effect in the ultimate distribution and dispersion of landed properties. The principle of unequal distribution of land could not be maintained to

the extent, which is now the case, under provisions imposed on successive generations by ambitious ancestors.

#### COMPULSORY HERITAGE.

There is much to be said in favour of going yet a step further, and of adopting the principle, now generally prevalent in Europe, known as "the compulsory heritage"—namely, the enforced distribution, on the death of the owner, of the greater part of his property, whether land or personalty, equally among his children. This principle, derived from the Roman law, was the old common law of Europe. The feudal principle of primogeniture and entail was adopted later, and was applied exclusively to feudal rights and property in possession of the nobility, but was never extended to the common people. Later still, wherever the feudal principle was abolished, the common law of compulsory division became the general rule. In France it was regulated and made universal by the Code Napoleon. In countries where this system has prevailed, there is no law so universally acceptable to all classes, as one founded on the principle of justice and equality in the family, and as beneficial in its application and effect, in preventing the aggregation of property, and especially land, in few hands.

Opinion in England, however, is very far from having arrived at a point, when it would bear such a limitation on the freedom of willing, and it would be useless at present to propound such a change. It is strange, however, that those who can defend our system of entails



and family settlements, the very essence of which is to deprive the holder of landed property of all power of disposing of it among his children, and to secure its descent to a single and eldest son—a system which so generally prevails in the case of landed properties—should insist so strongly on the principle of freedom of bequest, and should be so averse to the Continental law of compulsory heritage. It may well be doubted whether, under a system of freedom of willing, in the absence of entails, it will be possible to stay the process of the aggregation of land in few hands. The feelings of family pride, and of posthumous ambition to found or sustain a family, and the social privileges which attach to great estates, are so powerful, that they may possibly work in this direction, unless counteracted by the law of compulsory distribution on the death of the owners of land. It has been described how strong is the feeling of the people of Jersey and Guernsey on this point, and how deep their conviction that they owe their prosperity, and the absence of pauperism, to the wide distribution of land secured to them by the law of compulsory heritage.

#### REVERSAL OF STATE INFLUENCES IN FAVOUR OF AGGREGATION.

There are many indirect means by which the State has in the past favoured, and still continues to favour, the aggregation of properties, or to oppose obstacles to their dispersion. Foremost among these is the



distinction drawn between land and personalty, for the purpose of the death duties. No probate duty is charged on land. The succession duty which is levied on land is supposed to be an equivalent to the legacy duty. It is assessed, however, not on the actual value of the property, but on the value of the life interest of the person to whom it is bequeathed. The payment of succession duty may also be spread over five years. The object of this arrangement is to make it easy for the owner of the land to pay without selling any of his land. Lord Thring has suggested, as a means of promoting the sale of land in small parcels, that the State should take payment of the succession duty in kind.

“It is clearly,” he has said, “of advantage that well-to-do peasants should have an opportunity of purchasing land out of their savings if they wish to do so. In order to meet their requirements, a sale of large parcels of land in the same part of the country is of little avail, as in no case will there be found an occasion in England for the establishment in any one place of numerous peasant properties. The object is to ensure, as far as possible, that in every village in England one or more peasant properties may be capable of acquisition at a small expense. In order to secure this, I would suggest that land, in the case of redemption of the land tax, and in the case of the succession duties, might be taken in kind in payment. At present, a great practical difficulty exists as to how the money for such purpose is to be raised in the case of land. To raise money by mortgage involves an expense not unfrequently as great as the sum required to be paid as duty. On the other hand, if the Revenue Office could take small portions of land as payment in kind they would confer a double benefit: first, on the owner, by relieving him from the obligation to find money at a disadvantage;

secondly, on the public, by putting into the market from time to time, in different parts of the country, small plots of land adapted to the resources of small proprietors.”\*

There can be little doubt that the practice of conferring peerages and other hereditary titles upon persons who have performed no important public service, but who have either inherited, or purchased, and accumulated large properties in land, has been a very potent influence in the aggregation of land. Mr. Pitt, who was most profuse in his additions to the peerage, is reported to have said that a man, who had £10,000 a year in land, was entitled to a peerage, if he desired it and if he was on the right side in politics. The same view seems to be entertained by some Prime Ministers of modern times, though the qualification has been enlarged. Many recent peerages have little to justify them, except the possession of landed estates of £20,000 a year and upwards. It may be doubted whether there is any so sure a method of obtaining hereditary honours, even in the present day, as that of aggregating a large estate, and using the influence, which attaches to it, in the field of politics. So long as this bad tradition is maintained, the indirect influence of the State in favour of aggregation will be very great. Of the same order of influences is the selection of county magistrates wholly, or chiefly, from the class of landowners. In many rural districts the Lord-Lieutenants refuse to put upon the rota of

\* *Nineteenth Century Review*, 1892, p. 150.

magistrates any but landowners of good estate, or those closely connected with the landed interest.

To reverse all the influences which lead in this direction, and which oppose themselves to the dispersion of landed property, will be no easy task ; but unless this is done, all the artificial attempts to create a class of small ownerships will fail, and what is gained in one direction, will be lost in another, and the existing system will be bolstered up by the administration of the country, as well as by fashion, custom, tradition, and social privilege.

It is believed that the joint effect of the abolition of primogeniture and the prohibition of entails, the simplification of the methods of transfer by the adoption of local registries, and the compulsory registration of titles, when assisted also by the withdrawal of the State support to aggregations of land in few hands, will soon be powerfully felt all over the country in facilitating and promoting the creation of small ownerships. In the first instance these will be mainly held as adjuncts to other employments, whether by labourers or village tradesmen, but later it may be that many more persons will make their living wholly out of small ownerships and tenancies than is now the case.

This, however, can only come about by degrees. The attempt artificially to create small ownerships by State loans will probably fail. What is wanted, is not so much colonies of such persons in isolated districts, as that there should be small ownerships and tenancies within reach of every village in the country.

In this respect there is much to be hoped for from the action of landowners themselves. Public opinion is often more potent in its effects even than legislation. It may well be that, under the spur of public opinion, the feeling will grow among landowners, that it will be wise, as much in their own interest, as in that of the people of their districts, to give facilities for the acquisition of small ownerships, and of small holdings, with security of tenure. If this should be the case, there would soon be results far greater and more widely spread than can possibly be expected from the action of Local Authorities.\* The operations of Building Societies might, it would seem, be extended to the purchase of small holdings of land; and it may be worthy of consideration whether the State might not facilitate such transactions by the loan of money on favourable terms, as in the case of Societies for the erection of Artisans' Dwellings.

\* In the case of a large estate, in a purely agricultural district, of which the writer is a trustee, there were sold, a few years ago, over thirty plots of land, varying from one acre to fifteen. They brought very high prices, and were bought by persons of the class of village tradesmen, who were tempted to buy by the offer of conveyances free of any legal charges.

## CHAPTER XII.

### NATIONALISATION *VERSUS* INDIVIDUALISM.

#### 1. MR. HENRY GEORGE'S SCHEME.

It has been shown that the principal efforts of the Legislature and the main objects of land reformers have been in the direction of multiplying ownerships of land, and of reversing the influences and facilities for the aggregation of large estates. There are some reformers, however, who object to the policy of adding to the number of individual owners of land, and who look forward rather to some scheme of State or Municipal ownership of land.

It will be well, therefore, to consider briefly what should be the ultimate aims of agrarian reforms, whether they should tend towards individual ownership, or to nationalisation and municipalisation of land, or to some form of socialism, in which ownerships, or even permanent occupations, by individuals would have no place.

Mr. Henry George, who is the principal expounder of the tenets of one school of land nationalisers, has denounced individual ownership in no measured terms, and holds it to be a main cause of pauperism and distress. In forcible and picturesque language, he says:—



“The recognition of individual ownership of land is the denial of the natural rights of individuals. . . . Our boasted freedom involves slavery so long as we recognise private property in land. . . . Rent is a fresh and continuous robbery that goes on every day and every hour. It is not from the produce of the past that rent is drawn, but from the produce of the present. It is a toll levied upon labour constantly and continuously. Every blow of the hammer, every stroke of the pick, every thrust of the shuttle, every throb of the steam engine, pays its tribute. . . . Private ownership of land is the nether mill-stone. Material progress is the upper mill-stone. Between them with an increasing pressure the working classes are being ground.” \*

When, however, Mr. George explains the practical details of his scheme for remedying these evils, and for carrying out his principle, they appear to resolve themselves into a method of taxation rather than a change of land tenure. He proposes that the whole of that part of the income of landowners, which is due to mere rent, and not to interest on the value of the improvements effected on the land, shall be levied by the State in the form of a land tax.

“I do not propose,” he says, “either to purchase or to confiscate private property in land. The first would be unjust; the second, needless. Let the individuals who now hold it still retain, if they want to, possession of what they are pleased to call their land. Let them continue to call it their land. Let them buy and sell, bequeath and devise it. We may safely leave them the shell if we take the kernel. It is not necessary to confiscate land ; it is only necessary to confiscate rent.” †

\* “Progress and Poverty,” p. 241.

† “Progress and Poverty,” p. 288.

And again he says :—

“The right of exclusive ownership of anything of human production is clear. To improvements of land such an original title can be shown, but it is a title only to the improvements, and not to the land itself. If I clear a forest, drain a swamp, or fill in a morass, all I can justly claim is the value given to these exertions. They give me no right to the land itself, no claim other than to my equal share with every other member of the country in the value which is added to it by the growth of the country. . . . If we concede to priority of possession the undisturbed use of land, confiscating rent for the benefit of the community, we reconcile the fixity of tenure which is necessary for improvement with a full and complete recognition of the equal rights of all to the use of the land.”\*

It is clear from such extracts that Mr. George, and those belonging to his school of land nationalisation, propose to leave the owners of agricultural land in actual possession of their property, but to impose a tax on them equal to the true rent of their land after deducting that portion of the nominal rent, which is due to the improvements made upon the land, and not to its inherent qualities or position.

In the case of town properties it is presumed that Mr. George would levy, in the shape of a tax, the true ground rent—that is, the estimated rent of the land without the buildings erected upon it. The proposal then seems to resolve itself into a plan for taking for State purposes what is commonly called the “un-earned increment,” not, however, confined, as Mr. J. S. Mill proposed, to the future increment, but including

\* “Financial Reform Almanac.” 1891.

the past increment, going back to the time when the land was prairie or waste, and unimproved or unbuilt on. With a tax thus levied, he would propose to exempt the labouring classes from all taxes on articles of consumption.

It is not necessary further to discuss such a proposal. It is a system rather of taxation than of land tenure. It savours of *impôt unique* of the school of physiocrats in France before the Revolution. It is not really inconsistent with private property in land. As a method of taxation it is beyond the scope of the present inquiry. It may be well, however, to make two observations upon it before passing on. Such a scheme, whatever may be thought of its expediency, might be perfectly just if adopted by a State, with respect to its unoccupied land, or if applied, so far as the increment of value is concerned, to the increased value of the future; if, for instance, a State were to announce and enact that, in future, all purchasers of its public and uncultivated lands would be subject to such a tax, no one could take exception to it on the ground of injustice and inequality of treatment. But in a country where individual ownership of land has been recognised for generations, and where thousands of interests have grown up on this basis, it is impossible to recognise the justice of exempting personal property, wholly or in part, from taxation, and accumulating it on that property which has been invested in land. So far as the labourers are concerned, it would seem to be a matter of indifference whether the tax is levied on one kind of realised property or another—on personal

property invested in consols or in shares of public companies, or in house property or in land. But the inequality of treatment between the owners of these classes of property would be so manifestly unjust, that the scheme could not be carried out. The question therefore would ultimately resolve itself into this, whether it would be for the general interest to relieve the labourers of the taxes on spirits, beer, tobacco, and tea, for the purpose of accumulating them on all realised property, whether land or personalty.

As, moreover, Mr. George does not propose to confiscate the land itself, or to take the control and management of it out of the hands of its present owners, but merely to impose on them a tax representing the true rent only—that is, the annual value of the land irrespective of improvements upon it—his scheme would have very little effect upon a large proportion of the agricultural land of England at the present time, for it is certain that the present rent, reduced, as it has been, by agricultural depression, is in many cases no more than a fair rate of interest on the capital expended on the land within the last forty or fifty years.

It may be doubted, indeed, whether there is any extent of purely agricultural land in Great Britain at the present time, where the rent represents more than the interest on the money which has been spent on converting it from waste land into its present condition, including the making of roads, drains, and fences, the erection of houses and cottages, the planting it,

and all those other improvements which have taken place from the earliest of times.

In an interesting article in the *Journal of the Royal Agricultural Society*, on "The Making of England,"\* Mr. Albert Pell has shown that on three large typical estates, in different parts of England, the expenditure on improvements of various kinds within the last fifty or one hundred years has been of such an amount that the interest on it at four per cent. would exceed the net rental derived by the landowners from the properties, and that the landowners would have been far richer men if, instead of improving their estates, they and their predecessors had invested this money in consols, and had allowed their land to remain in its original condition.

On one of these estates, in Norfolk, the expenditure in improvement from 1776 to 1841 was £536,000, and the gross rent, at the end of that period, was £52,000 a year, the net rent, after payment of taxes, tithe, maintenance, and management, being no more than £30,000. Since 1842 the present owner has expended £490,000 in improvements on the property, but his net rent is reduced to a little over £25,000, which is not more than  $2\frac{1}{2}$  per cent. on the outlay in the last hundred years.

Such cases show how little in these days would be obtained from a tax on agricultural land so levied as to appropriate the true rent only, after deducting the

\* *Journal of the Royal Agricultural Society*, 1887, p. 355.



interest on the amount of capital expended on improvements in modern times. The question, however, of "increment of value" is one of far greater importance in towns, where the aggregation of population and wealth has raised the value of land to a point often far exceeding that of the buildings erected upon it, and where this has been in no way due to the expenditure or efforts of the successive owners of it. There is much to be said in such cases in favour of a scheme of taxation, whether local or imperial, which shall impose on such ground values a larger contribution than on property which is due to the expenditure of capital and labour, namely, the buildings erected on the land. This, however, as well as the analogous questions of "betterment" and "enfranchisement of leaseholds," is beyond the scope of an inquiry into agrarian tenures in rural districts.

## 2. MR. ALFRED WALLACE'S SCHEME.

The Land Nationalisation Society, with Mr. Alfred R. Wallace as its president, approach the question from a somewhat different point of view to Mr. Henry George. They agree with him as to the evils of the present system, but they direct their attacks rather against the system of landlordism and tenancy, than against ownership.

"Landlordism," says Mr. Wallace, "*per se*, is necessarily evil, while the occupation of land by its real or virtual owners is good, just in proportion as the owner is in a position to receive the whole benefit, present and future, of his outlay on the land. To

secure this, the State must be the real owner or ground landlord. It is equally clear that the nature of ownership of land must *not* be the same as that of other property, as, if so, occupying ownership would not be universally secured. A person must own land only so long as he occupies it personally—that is, he must be a perpetual holder of the land, and not its absolute owner; and this implies some superior of whom he holds it. We thus come back to that feudal principle (which in theory still exists) that anyone must hold his land from the State subject to whatever general laws and regulations are made for all land so held. The State must in no way deal with individual landowners except through the medium of special Courts, which will have to apply the laws in individual cases. Thus, no State management will be required, with its inevitable evils of patronage, waste, and favouritism.”

He then points out that the value of land is made up of two distinct portions—the inherent value and the improvements or additions made to the inherent value by the labour and outlay of the owners or occupiers. The inherent value should, he thinks, become the property of the State, which must be remunerated for its use by payment of a perpetual quit-rent. The other portion, which is that created by the exertion of the landowner or his predecessors, consisting of buildings, fences, drains, gates, private roads, plantations, etc., should be the property of the occupier of the land, and may conveniently be termed the tenant-right, because the possession will constitute him a tenant of the State.

For the purpose of effecting this change, he proposes that a valuation shall be made of every holding, separating these two values, and that the State shall become the owner of the former, compensating the existing owners

by paying to them annuities equal to the annual value of the inherent value of the land, not in perpetuity, but for a certain number of lives. The land having thus been acquired by the State, every existing tenant would be entitled to continue in possession of his house, farm, or land, as holder under the State, on payment of a fixed quit-rent; but to constitute him such a State tenant he must first purchase the tenant-right. He is to do this either by purchasing it from the landlord under a private agreement, or, failing this, at a price to be determined by a Land Court. He would then become the absolute owner of the tenant-right, and, as such, the holder of the land under the State in perpetuity. The tenant-right, carrying with it the right of occupation, would be as freely saleable as any other property. The land would be capable of being subdivided and sold or bequeathed in portions. Where the tenant is unable to purchase the tenant-right, provision is to be made, either through authorised loan societies or through municipal authorities, for the advance of the sum required, to be repaid by a terminable rental extending over a period of from fourteen to forty years. Sub-letting would be absolutely prevented. This, it is contended, would be absolutely essential to secure the full benefit of nationalisation, because once admit sub-letting, and landlordism would again rise under another name, and the sub-tenants would be subject to all the injurious influences and conditions, the abolition of which is the very *raison d'être* of the reform. The Land Court, however, is to be empowered to permit sub-letting in certain cases, in order to keep the house or land for

minors, and in other analogous cases. Mortgaging is also to be strictly limited.

The scheme of land nationalisation thus propounded seems to partake in part of the system of tenure created by the Irish Land Act and the Scotch Crofters' Act, by the establishment of a dual ownership of the land, the State, however, being substituted for the landlord, and the tenant being converted into a joint-owner, with perpetuity of tenure at a fixed rent, and with the same restriction against sub-letting as exists in those Acts. In order to bring about this state of things there is to be an expropriation of the landlord's interest, one portion of which is to be transferred to the State in return for an annuity for a certain number of lives, the other to the occupying tenant for a sum of money down, which is either to be paid direct by the tenant or by the local authority, which is to lend money for the purpose to the tenant, repayable over a term of years. This part of the scheme, therefore, involves the system of the Land Purchase Acts of Ireland. The scheme, apparently, is to apply equally to buildings and urban property as to land and agricultural property. As the value of the improvements, whether town buildings of all kinds, farm buildings, roads, drainage, etc., greatly exceeds the inherent value of the land—which at the present time, in the case of agricultural holdings, is very small—the advance necessary from the State would represent a sum many times greater than the National Debt.

The occupying holders would pay in the future two rents, the one representing the inherent value of the



land, if any, the other the interest of the purchase-money of the buildings and improvements. It is clear, then, that their payments for forty years would be considerably greater than their present rents. There seems to be no reason to suppose that the bulk of the farm tenants would desire such terms; in the case of larger holdings they would prefer to remain as tenants under the present system, paying rent, with the prospect of reduction in the event of prices ruling lower, to paying more than their previous rent without any prospect of a reduction. The landowners, being expropriated, would cease to expend capital on permanent improvements. It is not suggested that the State should undertake this duty. The bulk of the yearly tenants are quite unable to expend capital on permanent improvements. The scheme, therefore, appears to be quite impracticable in the case of the larger holdings, of which England mainly consists. It follows also that private ownership of land, having been got rid of by a supreme effort, would certainly reassert itself in the case of the occupying owners, holding by a fixed quit-rent from the State; and as it does not appear that there is to be a periodic revision of the quit-rent due to the State, any future increment of value would go to the occupying tenant.

It is difficult to understand how the advantages, if any, of the system could be worth the great effort and risk to the State in carrying it out by a general scheme of purchase on the enormous scale contemplated by the author of the plan.



LAND RESTORATION.

There is yet another school of land nationalisers, represented by the Land Restoration League, who would not be content to take the pure rent of the land in the form of a tax, like Mr. George, or to take the interest of landlords by compulsion, but subject to compensation, as Mr. Wallace advocates; but who propose that the State should resume possession of land, and should take the management of it, in the sense of dividing it into holdings of whatever size might commend itself to the people. In the manifesto of this Association it is said :—

“The land of every country belongs, by indefeasible title, to the living people of that country, unfettered by any grants, bargains, or sales, made by preceding generations, and it is equally manifest that the produce of labour rightfully belongs, by similar indefeasible title, to those whose industry and skill produce it. To secure this right of property in the produce of labour—a right which is necessary to the improvement and use of land—the user and improver of land must be guaranteed its secure possession, subject to the acknowledgment of the proprietary right of the whole people to the land itself, and to payment to the community of a fair equivalent for these advantages, which attach to its use by reason of the growth and progress of the community. Therefore the value of land, as distinguished from the value of the improvements made upon it by the user, belongs rightfully to the community, and should be taken for public uses, leaving the producer the full recompense of his industry.” . . .

“The question of compensation is a purely theoretic one; but, since it has been raised, we prefer to meet it by declaring that we cannot tolerate the idea that the people of England shall be compelled to buy back the land which is theirs by

natural right, or to compensate those who now appropriate their earnings for the loss of power to appropriate these earnings in the future."

In spite of this strong language, it would seem that, as it is proposed to secure to the future cultivators of land the value of their improvements in the future, so it is probably intended to confine the confiscation of existing interests to the true rent of the land, and, when taking possession of land, to compensate the owners for so much of its value as is due to improvements of themselves and their predecessors.

It appears to be the object of this society to take the direction and control of agricultural land out of the hands of private owners, and vest it in the State or in local authorities. Having achieved this transfer, they further advocate that the land should be subdivided into smaller holdings, and relet to tenants, rather of the agricultural labourer class than of the farmer class, who are now the universal cultivators of the soil. In the opinion of the advocates of this scheme, the resale to the existing occupiers upon the principle of the Irish Land Purchase Act, or the more recent Small Holdings Act, would be to reintroduce the system of landownership in a worse form than the present, and to multiply owners who would probably, in the long run, be less regardful of the interests of those below them, and of public interests, than the majority of the present large owners of land. Their object is that of universal tenancy rather than of multiplied ownerships.

Under this scheme it would be necessary for the local

authorities not merely to become owners of the land, but to be landlords in the ordinary sense of the term, with the obligation to find capital for any permanent improvements, which the occupiers might require. If existing landowners find that the providing of capital for permanent improvements on a number of small holdings—the building and maintenance of houses and farm buildings—is a great drain on their resources and a serious burthen on their rents, it is not probable that local authorities or the State will be more fortunate in their experience. They will find it impossible to refuse the demands for outlay, and will finally be compelled to grant fixity of tenure as the only means of resisting a ruinous expenditure.

It is to be observed, however, that when fixity of tenure is conceded to tenants of the State, or of Municipalities, private property in land is to a great extent admitted and established. Tenants with fixity of tenure are practically owners of the land, subject to payment of what is in the nature of a rent-charge, rather than rent, in the ordinary sense of the term, but which may be made liable to increase, so as to secure to the State the future increment of value. Subject to this, occupiers of the land would practically be owners. The rent would soon be regarded rather as a tax than as true rent. The system would tend to stereotype the particular class of tenancies created at its inception, and to oppose obstacles either to consolidation or breaking-up of holdings, as might be found economical and beneficial. The tenants in possession also would strongly resist the

conversion of their holdings into building land, when the increase of rent would go, not into their own pockets, but into the public exchequer, or the funds of the municipality.

It is further to be observed, in estimating the possible results of any scheme of nationalisation of land, that it would generally have the effect of collecting and taking the rent of land from the rural districts, and expending it in the centres of population on national objects, or in relief of taxation; while under the system of individualism, especially where the ownership of land is widely distributed, the rent, for the most part, is expended on the district in the employment of labour. The former, therefore, would rather tend to promote the exodus of labourers from rural districts. The same result would follow from the municipalisation of land, unless the authorities charged with the receipt and expenditure of rent were purely local, such as Parish Councils; and it is difficult to suppose that bodies so small could be entrusted with the ownership of all the land within their district.

In considering also the ultimate possibility of any general scheme of landownership by the State or by municipalities, we cannot disregard the fact that all the tendencies of civilised countries in modern times have been in the opposite direction, that of individual ownership of the most absolute character, with every facility for the dispersion of property and the multiplication of owners. This has been the case not only with long-established communities in Europe, but also with young



communities, settled in new countries, in North and South America and in the Australian Colonies, where there was every opportunity for any experiments in landownership, which those, discontented with the old-world system, might desire to attempt. Everywhere in these newly-settled countries we see but one and the same system—that of individual ownership. In the case of the pastoral lands of Australia there has been, it is true, an attempt on the part of the State to retain some hold over them, and the Legislatures of these Colonies have been unwilling to concede absolute ownership over the vast districts conceded for sheep and cattle farms; but this has not arisen from any doubt as to the principle of individual ownership, but rather the reverse. The system has been provisional, and it has been hoped and intended, as population increases and higher methods of cultivation become profitable and necessary, to substitute numerous small ownerships for the rights of pasture granted on lease to the earlier settlers. With this exception there has been no new system of landownership based on nationalisation or municipalisation of land, or on any Socialistic ideas, devised and adopted by those who have been free from all the traditions and difficulties of old communities, and who found themselves in possession of boundless land where any new experiment could have been made. It was possible for any one of these new States to have introduced a novel system of landownership as regards the unoccupied land within its boundaries. It appears, however, that Mr. George has not been able to influence



any one of them to adopt his views and to make a new departure, by retaining in its hands the ownership of land, and preventing the growth of individualism. They have one and all adopted the old system. They have parted with their public lands on the system of individual ownership in its most absolute form, without any reservation, with all the minerals below them, and all the other incidents recognised by English law.

It would seem difficult not to conclude from this concurrence that the principle of individual ownership of land is so strongly ingrained in the minds of Anglo-Saxons, that no other system is even thought worthy of trial by them.

It may also be concluded from these facts that, if any single State in America or any British Colony had adopted some other system, and had put a limitation on private ownership in favour of the people in their collective capacity, the stream of emigration would have passed by the State, and no one would have cared to settle there.

It is highly improbable, then, that in any old country like England, where vast interests have grown up under the system of individual ownership, and where a change from that to State or municipal ownership would be attended with infinitely greater difficulty, any really serious attempt will be made in this direction, or that any success will follow from it.

In determining from an economic point of view which of the various systems that have been suggested is the best, it should be recollected that there are only

two ways in which capital can be attracted to the land—namely, through the occupying cultivators, or through the superior landlords, whether these last be individual owners or local authorities.

All experience shows that occupiers of land, whether large or small, will not expend capital on permanent improvements unless they have security of tenure, either of ownership, or of tenancy with fixity of tenure either at certain rents, or at rents to be determined by independent authority.

In the latter case the occupier virtually becomes the owner of the land, and the landlord is converted into a mere rent-charger. Where this is the case, and the landlord is deprived of all control over the land, and all power of resumption, he has no longer any inducement to expend capital on the land. It is not probable that the State or municipal authorities, if placed in this position of rent-chargers, will be more willing than private landowners to improve the land. If, on the other hand, they are in the position of landlords with a numerous tenantry, not with fixity of tenure, but holding at rack rents, it is very certain that they will find that position to be even more onerous and unprofitable than most private owners do; and the ratepayers will soon weary of submitting to taxation for the outlay of capital on land for the benefit of a few members only of their body.

The main argument then in favour of individual ownership of land, is that experience shows that full ownership supplies the greatest inducements to improve

the soil, and to bring capital to it, and gives rise also to sentiments of citizenship and of independence ; of the highest value in the social organisation of rural districts. If this be so, then the more landowners that exist, the greater will be the result and effects of the system. If it is good for a district that a number of parishes, should belong to a single owner, and that no one below him, whether farm tenant or labourer, should have any permanency of tenure, and that all should be dependent upon this single person, then it will be admitted that the system might be still further developed, to the point that all the land of the country would belong to a single person—the State. If, on the other hand, it is true that individual ownership of land attracts capital to the land and fosters qualities of independence and patriotism in the minds of those who benefit from it, then the more widely spread it is the better and safer it must be for the country.

The general conclusion, then, is that individual ownership of land can best be defended, and is safest as an institution, and is more effective as an instrument of well-being, when it is widely spread. In this view, all the influences of the State should be used in favour of the dispersion of ownership among all classes. In this direction also lie the best hopes of improving the condition of the agricultural labourers by affording them every opportunity of rising in the social scale, and of acquiring that spirit of independence and of thrift and prudence which go so far towards the welfare of a community.

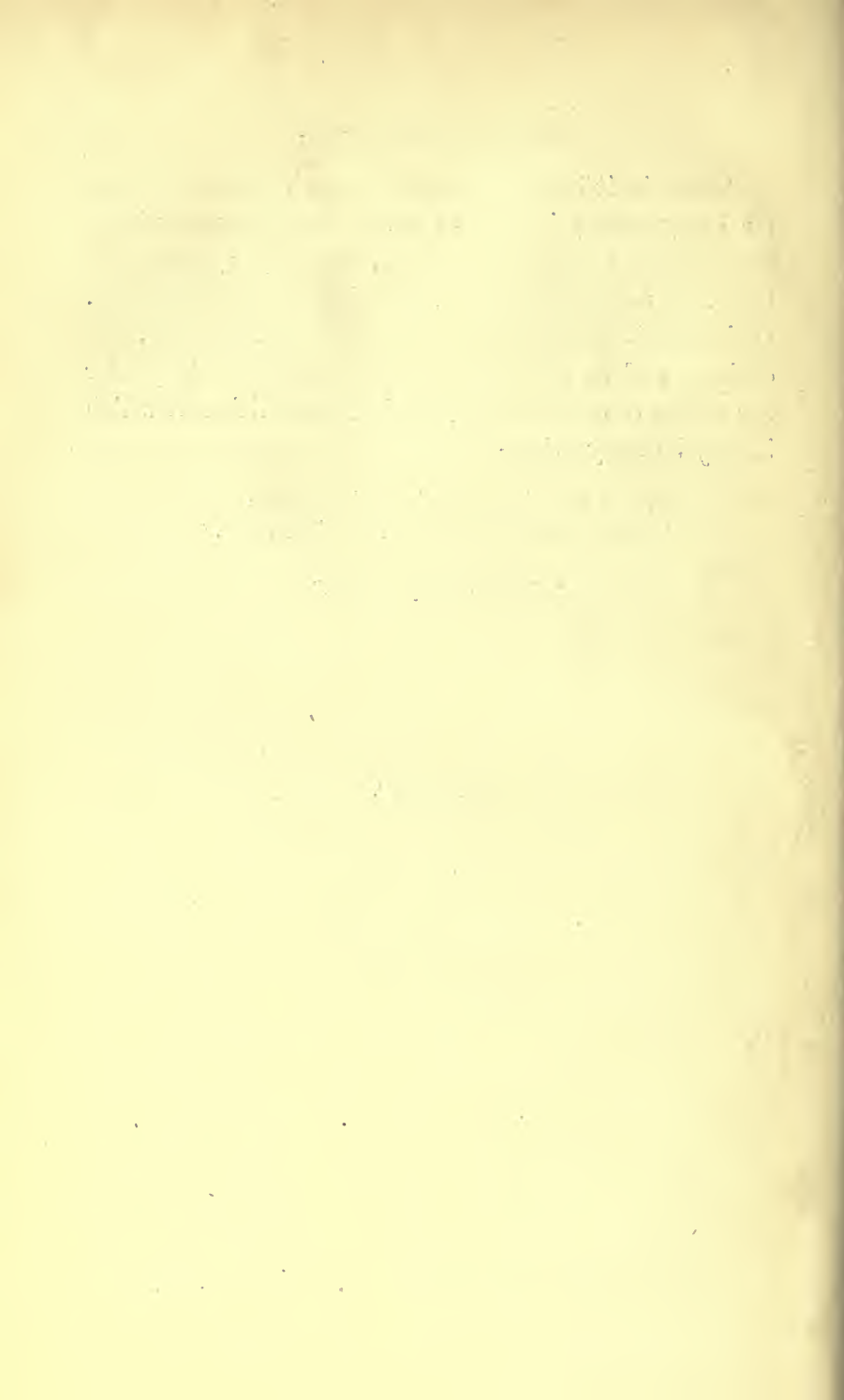
There is, it is believed, land enough in the country for every variety in size of ownerships, for many large properties and many large farms, and, side by side with these, for numerous small ownerships and small holdings. It is in this mixture of large and small ownerships, and of large and small holdings, that lie the best hopes for the future of our rural population, a condition of which it may be truly said—

That diverse interests themselves create  
The according music of a well-mixed state.\*

\* Pope's "Essay on Man."

THE END.









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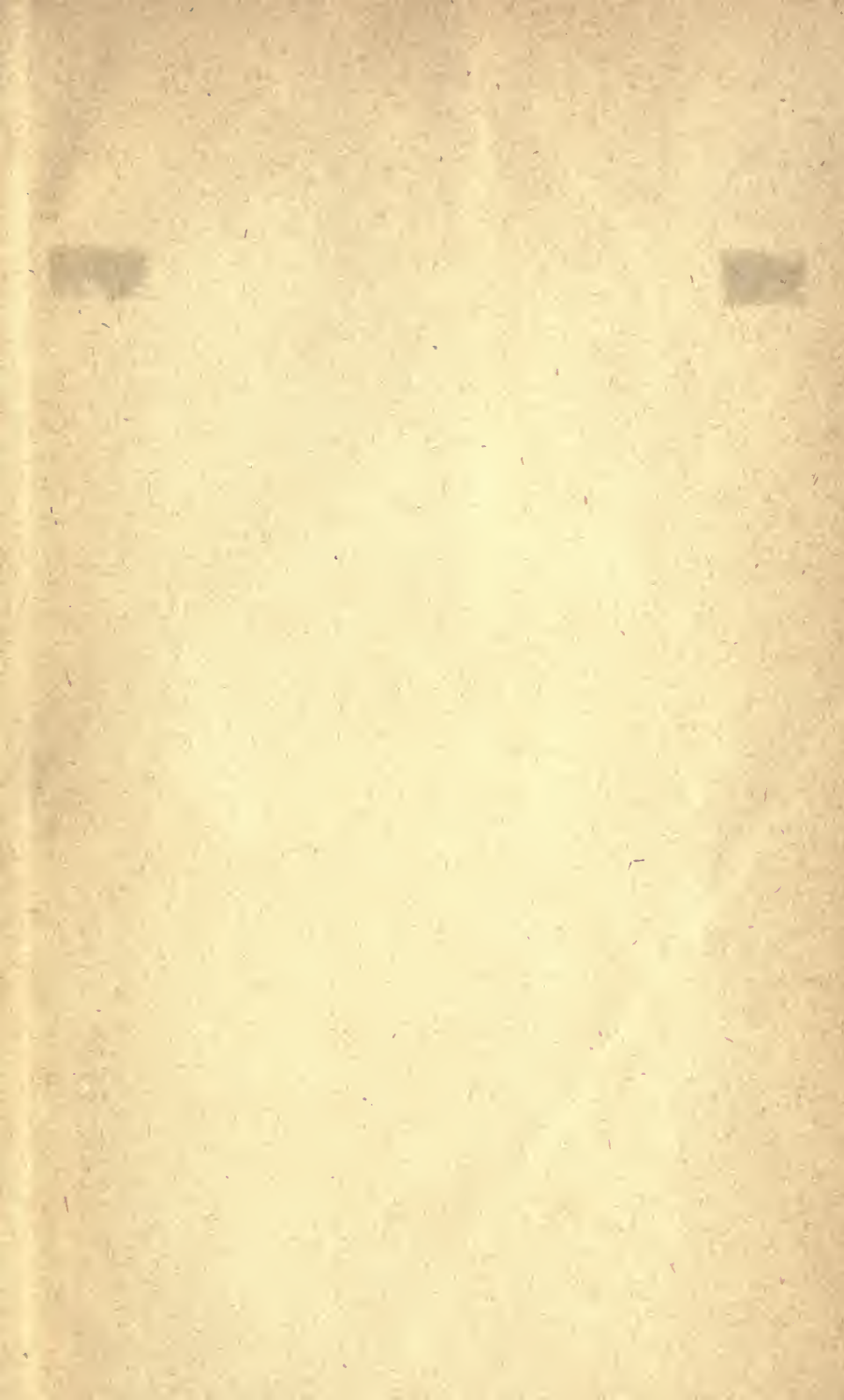
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